CANNON'S PRECEDENTS

VOLUME VII

CANNON'S PRECEDENTS

OF THE

HOUSE OF REPRESENTATIVES

OF THE

UNITED STATES

INCLUDING REFERENCES TO PROVISIONS
OF THE CONSTITUTION, THE LAWS, AND DECISIONS
OF THE UNITED STATES SENATE

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SPECIAL ORDERS.

758. A special order may be made by unanimous consent.

On Wednesday, April 4, 1917,[2] following the approval of the Journal, Mr. Henry D. Flood, of Virginia, from the Committee on Foreign Affairs, addressed the chair and submitted the following request:

Mr. Speaker, I ask the indulgence of the House for a moment to make a request for unanimous consent. The Committee on Foreign Affairs this morning reported the resolution (H. J. Res. 24) declaring that by the acts of Germany a state of war exists between that country and the United States. I ask unanimous consent that as soon as the appropriation bill is disposed of this resolution may be brought before the House and taken up for consideration, debated during the afternoon, and voted on some time during the afternoon.

After some time spent in discussion, Mr. Flood modified his request and it was put by the Speaker[3] in the following form:

The gentleman from Virginia, Mr. Flood, asks unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock to-morrow morning, and that after the reading of the Journal and the disposition of business on the Speaker's table, the so-called war resolution shall be taken up for debate under the general rules of the House. Is there objection?

There was no objection, and on the following day, April 5, after the Journal had been approved, the Speaker recognized Mr. Flood, who moved that the House resolve itself into the Committee on the state of the Union for the consideration of the joint resolution.

759. On February 16, 1923,[4] Mr. Frank W. Mondell, of Wyoming submitted the following request:

Mr. Speaker, I ask unanimous consent that on Monday and Tuesday next it may be in order at any time after 5 o'clock in the afternoon to move that the House stand in recess until 8 o'clock for the consideration of bills on the Private Calendar unobjected to, the session to last not later than 10.30 p.m.

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[1] Supplementary to Chapter LXXXVIII.

[2] First session Sixty-fifth Congress, Record, p. 263.

[3] Champ Clark, of Missouri, Speaker.

[4] Fourth session Sixty-seventh Congress, Record. p. 3794.

The Speaker, having submitted the request to the House, there was no objection, and the special order was agreed to.

760. A special order is sometimes agreed to by unanimous consent without formal resolution.

Instance in which the House by "gentleman's agreement," provided for nominal sessions during which no business should be transacted.

On October 19, 1918,[1] Mr. Claude Kitchin, of North Carolina, proceeding by unanimous consent, said:

Mr. Speaker, the legislative situation is this: With the exception of the deficiency bill which passed the House yesterday and the agricultural stimulation bill, and Senate joint resolution 63 to form a reserve of the Public Health Service, which we passed the other day, all the administration measures have been passed, and the only thing for the House to do is to wait until the Senate passes the revenue bill. The Senate Finance Committee will probably finish the revenue bill and report it out by the 29th. It is then proposed by the Senate to have a concurrent resolution for adjournment of the two Houses from October 29 to November 12; the Senate hopes to pass the revenue bill by the 20th, or not later than the 25th of November. It is then hoped we can have an adjournment sine die, which would be until the regular session meets on the first Monday in December. I am going to ask unanimous consent for a gentlemen's agreement, which I have put in writing and which I ask the Clerk to read.

The Clerk read:

It is agreed, by unanimous consent, that when the House adjourns today it shall stand adjourned to meet on Monday and Thursday only of each week until the Senate shall have voted on the pending revenue bill, unless sooner reconvened by operation of law or necessity, of which notice shall be given by the majority and minority leaders. That during this period no business shall be transacted, by unanimous consent or otherwise, except the final disposition of the pending deficiency appropriation bill, the Agricultural stimulation bill, and Senate joint resolution No. 63: *Provided,* That the House may consider and act upon any concurrent resolution proposing a recess for a fixed period.

The Speaker[2] inquired if the agreement was submitted as a resolution for consideration by the House.

Mr. Kitchin replied that it was not offered as a resolution and was merely the form of a gentleman's agreement which he suggested be entered of record.

After debate, the Speaker pro tempore[3] said:

Is there objection to the unanimous-consent agreement presented by the gentleman from North Carolina? [After a pause.] The Chair hears none, and it is so ordered.

761. By unanimous consent, the House agreed to transact no business during a stated period.

The laying before the House of a message from the President was held not to be business within the terms of a special order restricting the transaction of business, but being objected to, was not insisted upon.

On August 24, 1921,[4] on motion of Mr. Frank W. Mondell, of Wyoming, by unanimous consent, it was agreed that when the House adjourned it should adjourn

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[1] Second session Sixty-fifth Congress, Record, p. 11379.

[2] Champ Clark, of Missouri, Speaker.

[3] Thaddeus H. Caraway, of Arkansas, Speaker pro tempore.

[4] First session Sixty-seventh Congress, Record, p. 5708.

for three days, and should continue to take like adjournments for three days until Monday, October 3; and that on the convening of the House in the interim no business should be transacted except the reading of the Journal.

On September 28, 1921,[1] following the reading and approval of the Journal, the Speaker pro tempore proposed to lay before the House a message received from the President.

Mr. Thomas L. Blanton, of Texas, made the point of order that under the unanimous-consent agreement entered into on August 24, no business could be transacted until October 3.

The Speaker pro tempore [2] said:

The Chair overrules the point of order of the gentleman from Texas, but in view of the attitude of the gentleman from Texas in making the point of order that it was not proper to lay before the House a message which has already been received, the Chair will defer laying the message before the House until a later session of the House.

762. Tabulation, by sessions, of number of special orders providing for consideration of business, adopted since the Sixtieth Congress.

On March 17, 1910,[3] Mr. James R. Mann, at the conclusion of a discussion of the rules, appended, by consent, a list of special orders adopted by the House to that time on reports from the Committee on Rules during the Sixtieth Congress.

The number of special orders for the consideration of business reported by the Committee on Rules and adopted by the House for the Sixtieth and succeeding Congresses is as follows:

Congress.	Session.	Special orders.	Congress.	Session.	Special orders.
Sixtieth	1	6	Sixty-sixth	3	9
Sixtieth	2	3	Sixty-seventh	1	26
Sixty-first	1	5	Sixty-seventh	2	29
Sixty-first	2	6	Sixty-seventh	3	1
Sixty-first	3	5	Sixty-seventh	4	12
Sixty-second	1	3	Sixty-eighth	1	14
Sixty-second	2	11	Sixty-eighth	2	8
Sixty-second	3	4	Sixty-Ninth	1	22
Sixty-third	1	6	Sixty-ninth	2	13
Sixty-third	2	17	Seventieth	1	22
Sixty-third	3	5	Seventieth	2	17
Sixty-fourth	1	14	Seventy-first	1	3
Sixty-fourth	2	11	Seventy-first	2	24
Sixty-fifth	1	7	Seventy-first	3	11
Sixty-fifth	2	25	Seventy-second	1	32
Sixty-fifth	3	8	Seventy-second	2	13
Sixty-sixth	1	21	Seventy-third	1	27
Sixty-sixth	2	19			

763. A special order which provides for the consideration of a bill from day to day until disposed of includes, unless exception be made, a day such as Monday, set apart by the rules for a class of business.

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[1] Record. p. 5865.

[2] Joseph Walsh, of Massachusetts, Speaker pro tempore.

[3] Second session Sixty-first Congress, Record, p. 3335.

When a special order applies to certain days only, a bill taken up but left undisposed of can be called up again only on a day specified in the order.

Unless otherwise provided, special orders may be altered by unanimous consent only.

Where special order provides for convening of daily sessions at 11 o'clock while a bill is under consideration, the House meets at 11 o'clock only on days when consideration of the bill is in order.

On March 13, 1920,[1] during a discussion relating to the order of business, Mr. James R. Mann, of Illinois, as a parliamentary inquiry asked:

The rule that was adopted relating to the consideration of the Army reorganization bill making a motion to go into Committee of the Whole on the state of the Union on that bill in order, stated that the House should meet at 11 o'clock during the consideration of that bill. Monday being suspension day, and the consideration of the Army reorganization bill not having yet been concluded, will the House meet on Monday at 11 or 12 o'clock?

The Speaker pro tempore [2] said:

The Chair thinks, from the language employed in the rule, which is as follows:

"That during the consideration of the bill the House shall meet at the hour of 11 o'clock ante meridian" would make it necessary for the House to meet at that hour on each day on which the motion to consider it would be in order, until the bill had finally been disposed of.

Mr. Frank W. Mondell, of Wyoming, submitted the following motion:

In view of that fact, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 12 o'clock on Monday.

Mr. Mann submitted a further inquiry as to the method of amending a special order.

The Speaker pro tempore held that it could be altered by unanimous consent only.

764. The consideration of a bill under special order takes precedence of reading of engrossed copy of bill on which the previous question has been ordered.

On July 16, 1919,[3] the bill (H.R. 5726), fixing a minimum wage for certain employees of the United States, was ordered to be engrossed and read a third time.

The reading of the engrossed copy having been demanded, Mr. Champ Clark, of Missouri, as a parliamentary inquiry, asked if the reading of the engrossed copy would be in order on the following day.

The Speaker [4] replied that a special order provided for consideration of the bill (H.R. 6810) relating to prohibition of intoxicating beverages on the following day and would take precedence of the reading of the engrossed copy of the pending bill.

765. When a special order prescribes limits beyond which debate may not continue, the House may, on motion, close debate at any time within such limits.

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[1] Second session Sixty-sixth Congress, Record, p. 4313.

[2] Joseph Walsh, of Massachusetts, Speaker pro tempore.

[3] First session Sixty-sixth Congress, Record, p. 2689.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

Under a special order providing for consideration in Committee of the Whole, the House automatically resolved into the committee after voting on a motion to close debate for which the committee has risen.

On January 30, 1923,[1] the House was considering, in the Committee of the Whole House on the state of the Union, the joint resolution (S. J. Res. 12) authorizing the President to make certain requirements of the United States Sugar Equalization Board.

Consideration was proceeding under a special order of the House which provided that debate would "not exceed 1 hour and 30 minutes."

Before the expiration of the time specified the committee rose, and Mr. Frank W. Mondell, of Wyoming, moved that debate be closed on the joint resolution pending in the Committee of the Whole.

Mr. William H. Stafford, of Wisconsin, raised the point of order that under the terms of the special order debate could not be concluded until the expiration of 1 hour and 30 minutes.

The Speaker[2] ruled:

The Chair thinks the argument of the gentleman would undoubtedly be correct if the resolution had fixed definitely a certain time; but the resolution says that there shall be not to exceed 1 hour and 30 minutes of general debate. Now, there is a general rule, of course, that the House at any time has the right to close debate in Committee of the Whole. The Chair does not think, because the Committee on Rules said there should be not to exceed an hour and a half, that that takes away from the House the power to decide whether there shall be less than that. It does not give it to any one gentleman to decide, but it leaves it in the power of the House to decide whether there shall be less than that time for general debate. The Chair overrules the point of order.

Mr. Everett Sanders, of Indiana, submitted the further point of order that a motion to go into Committee of the Whole should precede the motion to close debate.

The Speaker said:

Under the rule the House will automatically go into Committee of the Whole. The gentleman from Wyoming moves that debate in Committee of the Whole be now closed.

766. A division of time for debate between those "for and against" a proposition does not necessarily provide for such division between the majority and minority parties of the House but between those actually favoring and opposing the measure.

The House having adopted a special order susceptible of an interpretation waiving the rule limiting Members to one hour in debate, the Speaker held the rule to remain in force unless specifically abrogated.

On March 23, 1922,[3] while the House was proceeding under a special order authorizing the consideration of motions to suspend the rules, Mr. Joseph W. Fordney, of Michigan, moved to suspend the rules and pass the bill providing adjusted compensation for veterans of the World War.

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[1] Fourth session Sixty-seventh Congress, Journal, p. 165; Record, p. 2750.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-seventh Congress, Record, p. 4365.

Mr. John N. Garner, of Texas, called attention to the provision of the special order that:

Provided, however, Instead of 20 minutes' debate being allowed to each side for and against the motion, there shall be 2 hours for such debate to each side.

and inquired if, under this provision, the Member demanding a second would be recognized for two hours.

The Speaker [1] said:

Normally under a motion to suspend the rules, when there is only 20 minutes on a side, the gentleman making the motion has 20 minutes and the gentleman demanding a second has 20 minutes. Under the general rules of the House no one is recognized for more than an hour. The Chair thinks that the gentleman from Michigan, Mr. Fordney, should be recognized for one hour in favor of the motion and the gentleman from Texas, Mr. Garner, one hour against the motion. Then there would be two hours remaining, which the Chair thinks would be within the recognition of the Chair.

The Chair will state frankly what his purpose is. The Chair thinks he should recognize the gentleman from Michigan for one hour in favor of the motion and the gentleman from Texas, Mr. Garner, for one hour against the motion, and then normally he would recognize the gentleman from Arkansas, Mr. Oldfield, in favor and the gentleman from Massachusetts, Mr. Treadway, against. But under the present circumstances the Chair is placed in this dilemma: The rule provides that one-half of the time given to debate be in favor and one-half in opposition to the proposition. It seems to the Chair that anyone who has read the report signed by the gentleman from Arkansas, Mr. Oldfield, would not expect the time he consumed would be in favor of the proposition. The report which the gentleman signed attacks the bill. Therefore, the Chair has come to this conclusion, that he will recognize the gentleman from Michigan for one hour, the gentleman from Texas for one hour, and the next ranking member of the Committee on Ways and Means, the gentleman from Iowa, Mr. Green, for one hour, he having assured the Chair that he will yield one-half of that hour to the gentleman from Arkansas, Mr. Oldfield, and then will recognize the gentleman from Massachusetts, Mr. Treadway, as opposed to the bill, for one hour.

The Chair does not think that the rule means that the gentleman from Michigan shall have two hours and the gentleman from Texas two hours. The Chair does not think that is a proper interpretation of the rule.

The Chair thinks that the general rule of the House of one hour applies; and the Chair does not think there is any way under this rule by which a gentleman can have more than one hour except by unanimous consent.

Mr. Garner further inquired if the Speaker proposed to divide the time equally between the majority and minority.

The Speaker continued:

The Chair wishes to assure the gentleman, and he hopes it will be credited, that his desire is to be entirely fair. He would normally and naturally recognize the gentleman from Arkansas, Mr. Oldfield, but it seemed to the Chair that doing that would really give to the opponents of the measure three hours, or that at least most of three hours of the time for debate would be occupied with attacks on the bill, leaving only one hour in its favor. Therefore the Chair made the arrangement which he suggested.

The Chair thinks that he is justified in that by the attitude taken by those on the minority side of the House as evidenced in the minority report, showing that while they are going to vote for the bill they desire to use their time in criticism of it.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

767. The term "minority" in a special order was construed to refer to the Minority party in the House and not to those in the minority on the pending question.

On December 21, 1920,[1] the House was considering, in the Committee of the Whole House on the state of the Union, the bill (S. 3477) to increase opportunities of the people to acquire rural homes, under a special order providing that:

There shall be one hour and a half of general debate, one-half to be controlled by the chairman of the Committee on Irrigation of Arid Lands and one-half to be controlled by the ranking minority member of that committee.

Mr. Otis Wingo, of Arkansas, rose to a parliamentary inquiry and asked if the term "ranking minority member" as used in the order referred to the ranking party member or to the ranking member opposed to the measure.

The Chairman[2] said:

The Chair will respond to the parliamentary inquiry. In the opinion of the Chair, the rule which has been adopted in the House is binding upon the committee. The rule provides that there shall be an hour and a half of general debate, one-half to be controlled by the chairman of the Committee on Irrigation of Arid Lands and one-half by the ranking minority member of that committee.

While the rule may be arbitrary, a remedy lay in an amendment when the resolution was being considered; but as no amendment was adopted, the Chair must hold that the words "the ranking minority member of that committee" means the political minority.

768. A special order authorizing managers as provided by section 2 of Rule XX to agree to a Senate amendment making appropriations, precludes the point of order that the House has not voted separately on a new appropriation in such amendment.

On November 1, 1921,[3] during the consideration of the conference report on the good roads bill, Mr. Joseph Walsh, of Massachusetts, raised the point of order that the conferees had exceeded their authority by agreeing to a Senate amendment making appropriations for forest roads and trails.

The Speaker[4] said:

In this case there is only one amendment. Rule XX, clause 2, provides that there shall be a specific vote on each Senate amendment introducing a new appropriation. The House last week passed a special resolution providing that the managers on the part of the House "are hereby given specific authority, as provided in clause 2, Rule XX, to agree to an amendment of the Senate providing for an appropriation."

It seems to the Chair very clear that that was intended to authorize the conferees to do exactly what they have done, to agree to an amendment containing an appropriation. It is asserted that it contains more than one appropriation. But it was one amendment, and obviously the purpose of this special resolution was to prevent the application in this case of Rule XX, clause 2, and to preclude the necessity which would otherwise exist of reporting a disagreement, getting specific authority on each amendment, and then go back to conference. It was a short cut, it seems to the Chair. The intention is perfectly clear, and it seems to the Chair that the amendment is legal and orderly, and the Chair overrules the point of order.

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[1] Third session Sixty-sixth Congress, Record, p. 610.

[2] Frederick C. Hicks, of New York, Chairman.

[3] First session Sixty-seventh Congress, Record, p. 7119.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

769. A special order may provide that all points of order against a proposition be considered as waived.

Each House determines for itself its practice in the consideration of conference reports, and a concurrent resolution is not required in fortifying a conference report against points of order.

On October 10, 1919,[1] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, submitted a resolution providing for the consideration of the conference report on the prohibition enforcement bill, and including the following:

> And all points of order on said conference report shall be considered as waived.

Mr. Joseph Walsh, of Massachusetts, raised a point of order that the right of a Member to make a point of order in the House was a constitutional prerogative, which could not be restricted or abrogated by resolution, and the Committee on Rules were without authority to submit such resolution.

The Speaker[2] said:

> This is a novel point. The Chair has been unable to find any precedents upon it. It is undoubtedly true that the usual practice has been to avoid points of order by a concurrent resolution. That, of course, does not prove that there is no other method of doing it, and on the general principle the Chair sees no reason why each House separately can not by a rule determine its own action. Each House has until quite recently had very different rules about conference reports. The Senate rule was, until their recent change, much more liberal than the House rule, which seems to confirm, the opinion of the Chair that each House has the right to determine separately its own limitations on conference reports and that the use of a concurrent resolution is not exclusive. The gentleman from Massachusetts contends that the provision in the rule that "points of order shall be considered as waived" takes away from a Member of the House his constitutional right to make a point of order. The Chair is disposed to agree with the gentleman that that is not a fortunate choice of language. It would have made the ruling easier if the precedents had been followed. As the Chair recollects, the ordinary custom is to say—
>
> "Shall be considered without the intervention of points of order."
>
> It seems to the Chair that it would have been better to have followed the precedents. On the other hand, the purpose of the rule seems very clear, that it simply means that points of order shall not be raised. It means to dispose of points of order, and although the language is subject to criticism, yet it seems to the Chair that the real intent and purpose of the phrase and not the verbiage should be considered. So, inasmuch as in the opinion of the Chair the House has a right to provide by a rule that points of order shall not be made against a conference report, and inasmuch as this language was evidently intended and may fairly be construed to accomplish that result, the Chair overrules the point of order.

770. When business which by unanimous consent has been made a special order remains unfinished at adjournment, it continues in order until disposed of.[3]

On May 22, 1920,[4] Mr. Rollin B. Sanford, of New York, proposed to call up, as unfinished business, the joint resolution (S. J. Res. 179) authorizing the use of Army transports to the Olympic games.

Mr. Thomas L. Blanton, of Texas, made the point of order that unanimous consent having been given for the consideration of the joint resolution on the pre-

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[1] First session Sixty-sixth Congress, Record, p. 6682.

[2] Frederick E. Gillett, of Massachusetts, Speaker.

[3] See section 7918 of this work.

[4] Second session Sixty-sixth Congress, Record, p. 7491.

vious day and adjournment having been taken without the previous question being ordered, its consideration could be resumed on another day by unanimous consent only.

The Speaker[1] overruled the point of order and recognized Mr. Sajaford to call up the bill.

771. A special order providing for the consideration of a bill from day to day until disposed of includes, unless exception be made, a day such as Monday, set apart by the rules for a class of business.

A special order may be suspended by unanimous consent only.

On September 26, 1914,[2] the House adopted the following resolution reported by Mr. Finis J. Garrett, of Tennessee, from the Committee on Rules:

Resolved, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 18459, "A bill to declare the purpose of the people of the United States as to the future political status of the people of the Philippine Islands, and to provide a more autonomous government for those islands." At the conclusion of the general debate the bill shall be read for amendment under the five-minute rule, and after being perfected the same shall be reported to the House with such recommendation as the committee may make; whereupon the previous question shall be considered as ordered upon the bill and all amendments thereto to final passage without intervening motion except one motion to recommit.

On the following Monday, September 28,[3] a day reserved under the rules for business relating to the District of Columbia, Mr. Ben Johnson, of Kentucky, asked, as a parliamentary inquiry, if business reported by the Committee on the District of Columbia was in order.

The Speaker[4] held that the special order suspended the operation of the rule by which Monday was set apart for District of Columbia business.

Thereupon Mr. Scott Ferris, of Oklahoma, submitted a further parliamentary inquiry, asking if it was in order to call up a conference report.

The Speaker held that the consideration of conference reports was precluded by the terms of the pending special order, and recognized Mr. Ferris to submit a request for unanimous consent.

772. A special order which provides for the consideration of a bill from day to day until disposed of includes, unless exception be made, a day such as Friday, set apart by the rules for a class of business.

On Friday, December 12, 1919,[5] under a special order providing for making the motion in order, Mr. Daniel R. Anthony, of Kansas, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the Army appropriation bill.

Mr. Nicholas J. Sinnott, of Oregon, offered, as preferential, a motion that the House resolve itself into the Committee of the Whole House for the consideration of bills on the Private Calendar.

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[1] Frederick E. Gillett, of Massachusetts, Speaker.

[2] Second session Sixty-third Congress, Record, p. 15800.

[3] Record, p. 15832, 15833.

[4] Champ Clark, of Missouri, Speaker.

[5] Second session Sixty-sixth Congress, Journal, p. 38; Record, p. 470.

The Speaker [1] said:

The Chair thinks that the rule that was adopted yesterday making the bill from the Committee on Military Affairs in order put that in a status where the motion to consider it could be recognized to-day by the Chair, if the Chair thought it wise. It was also in order to-day, according to the permanent rule, to move that the House resolve itself into the Committee of the Whole House to consider bills on the Private Calendar. Both of those motions are in order, and other motions might be in order. And it is the purpose of the Chair to recognize whatever motion the Chair thinks represents the desire of the House. Of course the Chair can not be certain what the desire of the House is, but the Chair has consulted different individuals who are interested in the various bills, and other Members, and has come to the conclusion that it was wise to recognize the gentleman from Kansas, Mr. Anthony.

Of course, the Chair can only guess what the House desires, and it is entirely in the hands of the House to determine what business it shall take up. If it votes down the motion of the gentleman from Kansas, then the next preferential motion would be in order by the chairman of the Pension Committee. The Chair overrules the point of order and recognizes the gentleman from Kansas, who made the motion that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the Army appropriation bill. The question is on the motion of the gentleman from Kansas.

773. A special order providing for the consideration of a bill from day to day until disposed of does not include Wednesday unless specifically mentioned.

On Wednesday, June 8, 1910,[2] the Speaker announced that the day was Calendar Wednesday, when Mr. J. Warren Keifer, of Ohio, made the point of order that under a special order adopted the previous day the order of business was the consideration of the postal savings bill.

The Speaker [3] said:

The rule that was adopted yesterday provided:

"That immediately upon the adoption of this resolution it shall be in order to consider in the House Senate bill 5876, entitled 'An act to establish postal savings depositories for depositing savings at interest'"—

And so forth.

That rule, reported by the Committee on Rules, was considered by the House and agreed to.

Under ordinary circumstances, prior to the adoption of the rule that creates Calendar Wednesday and also the rule which guards it from molestation by a resolution reported from the Committee on Rules, the rule in question would have superseded any other business naturally in order to-day, and the Chair would have had no difficulty in deciding the question and sustaining the point of order. But the rules of the House, made under the Constitution by the House, bind the House and can not be set aside, or ought not to be set aside, except under the operation of the rules. Now, the rule creating Calendar Wednesday provides:

"That Committee on Rules shall not report any rule or order which shall provide that business under paragraph 4 of Rule XXIV shall be set aside by a vote of less than two-thirds of the Members of the House present, nor shall it report any rule or order which shall operate to prevent the motion to recommit"—

And so forth.

It does not clearly appear from the rule that was adopted that the Committee on Rules had it in mind to change the rule in this instance touching Calendar Wednesday, or that the House, in its adoption, intended to change that rule.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Sixty-first Congress, Record, p. 7603.

[3] Joseph G. Cannon, of Illinois, Speaker.

The presumption is that neither the Committee on Rules nor the House intended to dispense with Calendar Wednesday by the special rule. It is the duty of the Chair, if possible, to construe all the rules so as to let each one operate, including this rule that was adopted yesterday. The language as to Calendar Wednesday is as follows:

"On Wednesday of each week no business shall be in order except as provided by paragraph 4 of Rule XXIV, unless the House, by a two-thirds vote on motion to dispense therewith, shall otherwise determine."

Now, it would seem that if the House intended to dispense with Calendar Wednesday it should have been more specific in its language than it was in the resolution it has agreed to.

The Chair feels it to be his duty, while he is Speaker of this House, to enforce the rules of the House. The rule forbidding the Committee on Rules to report a rule affecting Calendar Wednesday could be changed at the beginning of a session of Congress, when new rules are adopted. Also the rules can be suspended on a motion to suspend all rules, including the rule for Calendar Wednesday, by a vote of two-thirds of the House. The Chair knows no other way to change a rule or the rules of this House except by a report from the Committee on Rules, adopted by a majority vote. But in this instance the Committee on Rules, by a rule, is prohibited from dispensing with Calendar Wednesday. If they should report a rule that did dispense with it, if no point of order was made and the House agreed to the resolution, that would dispense with Calendar Wednesday. The Chair hardly believes that they intended to do that in this case, because it is not expressly so provided in the resolution that the Committee on Rules reported. Of course it is always in the power of the House, on an appeal from the decision of the Chair, to dispense with all rules, any one of the rules or all the rules; but such action would be revolutionary and when recently this House so acted the gentleman who led in such action announced that it was revolutionary, in conflict with the rules of the House and the Constitution of the United States. The Chair overrules the point of order; and in the absence of an appeal wiil decide that the pending bill under the call of committees is the unfinished business, which the Clerk will report.

774. Where a special order provided for the appointment of conferees "without any intervening motion," it was held to exclude the motion to instruct conferees, but not the motion to recommit.

On August 15, 1912,[1] the House agreed to a resolution making it in order to take the post office appropriation bill from the Speaker's table, disagree to Senate amendments, and ask for a conference. It was further provided that on the adoption of the resolution the Speaker should appoint conferees "without any intervening motion."

Upon the adoption of the resolution, Mr. James R. Mann, of Illinois, offered a motion to instruct the conferees.

Mr. Oscar W. Underwood, of Alabama, raised the question of order that under the terms of the special order just agreed to, the motion could not be entertained.

The Speaker[2] sustained the point of order.

Mr. Mann moved to commit the bill to the Committee on the Post Office and Post Roads, with instructions to that committee to report it back forthwith with the recommendation that Senate amendment No. 118 be agreed to.

Mr. John A. Moon, of Tennessee, made the point of order that the special order by which the bill was taken from the Speaker's table prevented the submission of intervening motions, including the motion to recommit, and demanded the previous question.

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[1] Second session Sixty-second Congress, Record, p. 11042.

[2] Champ Clark, of Missouri, Speaker.

The Speaker read the last sentence of section 1, Rule XVII, and decided [1] that the special order could not abrogate this provision, and recognized Mr. Mann to offer the motion to recommit.

775. Rules of the House may be suspended by resolutions reported from the Committee on Rules.

The House may by adoption of a resolution reported from the Committee on Rules suspend the rule providing for the division of a question.

Form of special order providing for consideration of two conference reports as one report.

Form of rule utilized in expediting consideration of a general tariff bill.

On June 14, 1930,[2] Mr. Bertrand H. Snell, of New York, by direction of the Committee on Rules reported the resolution (H. Res. 253), as follows:

Resolved, That for the purpose of the vote and debate the two conference reports on the bill H. R. 2667 shall be considered as one report. The reading of the two reports shall be waived, and the statement of the managers on the part of the House shall be read in lieu thereof. There shall be three hours of debate, which shall be confined to the reports, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. In the consideration of the reports all points of order shall be waived. At the conclusion of debate the previous question shall be considered as ordered on the adoption of the reports.

Mr. John J. O'Connor, of New York, submitted that the Committee on Rules in reporting a special order waiving all points of order exceeded their jurisdiction.

The Speaker said: [3]

This is a very ordinary proceeding. It has been done hundreds of times to the knowledge of the Chair. The Chair overrules the point of order.

Whereupon, Mr. Charles R. Crisp, of Georgia, inquired if in the opinion of the Chair the proposed rule abrogated the right of any Member to demand a division of the question and a separate vote on the two conference reports.

The Speaker replied:

The Chair thinks that if the resolution is adopted by a majority that suspends the rule quoted by the gentleman for today in connection with this bill.

776. A special order providing that the previous question be considered as ordered "without intervening motion except one motion to recommit" was held to preclude both amendment and debate on the motion to recommit.

On April 9, 1920,[4] during the consideration, under a special order, of the joint resolution (H. J. Res. 327), terminating war with Germany, Mr. Henry D. Flood, of Virginia, offered a motion to recommit and demanded the previous question on the motion.

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[1] Record, p. 11089.

[2] Second session Seventy-first Congress, Record, p. 10694.

[3] Nicholas Longworth, of Ohio, Speaker.

[4] Second session Sixty-sixth Congress, Record, p. 5479.

The Speaker [1] ruled:

The Chair has examined the rule and is of opinion that the previous question is not necessary. The rule provides:

"That at the conclusion of the general debate the previous question shall be considered as ordered on the said House joint resolution to final passage without intervening motion, except one motion to recommit."

That clause, in the opinion of the Chair, prevents any motion to amend and makes the previous question unnecessary. The question is on the motion of the gentleman from Virginia to recommit the joint resolution.

777. A special rule, ordering the previous question on a pending bill and amendments to final passage when reported from the Committee of the Whole, was held not to preclude a recommendation by the Committee of the Whole that the bill be recommitted.

A recommendation from the Committee of the Whole to recommit a bill on which the previous question had been ordered by special rule, being rejected, the question recurs on the passage of the bill.

On May 21, 1926,[2] the bill (H. R. 11603) to establish a Federal Farm Board to aid in the orderly marketing and in the control and disposition of the surplus of agricultural commodities was being considered under a special order, which provided:

After the reading of such bill for amendment it shall be in order to offer H. R. 11618 (Tincher bill) or H. R. 11606 (Aswell bill) as a substitute for H. R. 11603, or H. R. 11606 for H. R. 11618, or vice versa, notwithstanding the provisions of clause 7 of Rule XVI. At the conclusion of the reading of the bill 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.

After consideration in the Committee of the Whole House on the state of the Union, the Chairman of that Committee announced that the Committee of the Whole had directed him to report the bill back to the House with certain amendments with the recommendation that the bill and all amendments thereto be recommitted to the Committee on Agriculture.

Mr. Olger B. Burtness, of North Dakota, made a point of order that under the provision of the special rule ordering the previous question to final passage a recommendation from the Committee of the Whole to recommit could not be entertained.

The Speaker [3] overruled the point of order and said:

The Chair does not think he has the right to put any question except the question as to whether the House will follow the recommendation of the committee. The contention of the gentleman from Iowa would have been in order if the committee had recommended to the House the passage of the bill, but the committee did not make that recommendation; the committee recommended that the bill and amendments should be rereferred to the Committee on Agriculture. Therefore the Chair can take no other course than to overrule the point of order, and the question is, Shall the recommendation of the Committee of the Whole House on the state of the Union that the bill be rereferred to the Committee on Agriculture be adopted by this House?

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixty-ninth Congress, Record, p. 9861.

[3] Nicholas Longworth, of Ohio, Speaker.

The question on agreeing to the recommendation of the Committee of the Whole being taken and rejected, Mr. Cassius C. Dowell, of Iowa, submitted a parliamentary inquiry as to the further procedure required by the special order.

The Speaker held that under the order for the previous question provided by the rule, the question recurred on the stages incident to final passage, and put the question successively on the amendments and on the engrossment and third reading of the bill.

778. A special order to lay before the House a bill on the Speaker's table with the previous question ordered on a motion to concur in Senate amendments, does not prevent submission of a motion to recommit.

On March 4, 1911,[1] Mr. John Dalzell, of Pennsylvania, from the Committee on Rules, reported the following resolution:

Resolved, That when the bill H. R. 32010, "An act to create a tariff board," shall have been received from the Senate the Speaker shall immediately, without regard to pending business, lay it before the House, and thereupon the previous question shall be considered as ordered on a motion to concur in the Senate amendments in gross.

Mr. John J. Fitzgerald, of New York, made the point of order that the resolution was not privileged in that it prevented the offering of a motion to recommit.

The Speaker[2] overruled the point of order, and the resolution was agreed to.

Mr. Fitzgerald moved to commit the Senate amendments to the Committee on Ways and Means.

Mr. James R. Mann, of Illinois, raised a question of order and contended that the special order just adopted precluded the motion to commit.

The Speaker overruled the point of order.

779. A special order is interpreted literally and without regard to the practicability of its provision.

Where a special order provided for the motion to recommit, a conference report was admitted although Senate conferees had been discharged, the special order having been adopted after their discharge.

On October 10, 1919,[3] while the House was considering the conference report on the prohibition enforcement bill under a special order admitting a motion to recommit, Mr. William L. Igoe, of Missouri, moved to recommit the conference report to the conferees, with instructions.

Mr. Andrew J. Volstead, of Minnesota, made the point of order that the Senate had already acted on the report and discharged its conferees, and the motion to recommit was not in order.

The Speaker[4] said:

It seems to the Chair that this is an awkward and quite unprecedented situation. If it were not for the fact that the rule especially permits the motion to recommit, the Chair would have no hesitation, following the precedents, in ruling, that the motion to recommit was out of order, be-

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[1] Third session Sixty-first Congress, Record, p. 4332.

[2] Joseph G. Cannon, of Illinois.

[3] First session Sixty-sixth Congress, Record, p. 6696.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

cause the conferees on the part of the Senate have been discharged and there is really no conference committee to whom it could be recommitted. But the rule which the House adopted in the full light of the conditions, knowing that the Senate conferees had been discharged, especially authorized a motion to recommit. The Chair agrees that it is a vain and futile thing, but the Chair does not think that it is within the province of the Chair to invalidate a rule which the House has just passed. While it seems to the Chair that the adoption of such a motion would be useless—and the Chair can only speculate what might be the fate of the bill if the motion should carry—at the same time the Chair does not think it is within the province of the Chair to nullify what the House has just adopted with its eyes open. Therefore the Chair overrules the point of order. The question is on the motion to recommit.

780. A special order is strictly construed and supersedes rules with which it may be in conflict.

Jurisdiction and functions denied a committee under the rules may be conferred by special order.

A committee granted additional powers by special order is limited in the exercise of those powers to matters specified in such order.

On August 29, 1918,[1] during the consideration of the water-power bill in the Committee of the Whole House on the state of the Union, a section was read providing for the expenses of a waterways commission.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the section carried an appropriation, and that the Committee on Water Power was without authority to report appropriations.

The Chairman[2] said:

The Chair is thoroughly convinced that the Committee on Water Power, which has control of this bill—Senate bill 1419—has no general power to appropriate money, and the Chair would hold so immediately if it were not for the exceptional circumstances under which this committee was created and these particular bills referred to it. Senate bill 1419, which was referred specifically to this new committee by the special resolution of the House, passed on January 11 of this year, does carry appropriations. It is stated that another bill referred to specifically in the resolution and referred to this special Committee on Water Power also carries appropriations.

The Chair confesses that this is a rather perplexing question, but it seems to the Chair that inasmuch as a special rule was provided by the Committee on Rules, after careful consideration, which was finally adopted and known as resolution 216, in which resolution these four bills were specifically named and specifically referred to the Committee on Water Power, it does seem to the Chair that the House must be assumed to have known what it was doing, and that it knew that these bills did carry some form of appropriation, and that the House thereby conferred on the committee in these particular instances, and in these alone, the power to make appropriations. Therefore the Chair rules that in these specific cases the committee has jurisdiction to make appropriations. That is as far as the Chair rules, except, as I said at the beginning, the Chair believes that this committee has no further power to make appropriations.

781. Amendments authorized by special order may be supplanted or amended by germane propositions of the same import though expressed in different phraseology.

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[1] Second session Sixty-fifth Congress, Record, p. 9666.

[2] Edwin Y. Webb, of North Carolina, Chairman.

On May 25, 1916,[1] the District of Columbia appropriation bill was being considered in the Committee of the Whole House on the state of the Union under a special order making certain amendments in order.

A paragraph was read providing for the payment of expenses of the District government jointly from District revenues and the Treasury, a similar proposition though couched in slightly different phraseology being authorized by the special order.

Mr. Frank W. Mondell, of Wyoming, raised a question of order against the paragraph, contending that in order to come within the provisions of the special order it must follow the exact language therein.

Mr. Charles R. Crisp, of Georgia, controverted the point of order on the ground that an amendment once admitted might be perfected by germane amendments and the pending proposition was germane to the amendment authorized by the order.

The Chairman[2] decided that the paragraph was merely a transposition of the amendment authorized by the special order and overruled the point of order.

782. Under a special order providing that a specified amendment "shall be voted on," that particular amendment only must be voted on and no similar amendment or substitute, even though germane, is in order.

Under a special order providing that certain amendments shall be voted on, it is not necessary that such amendments be offered and the Chair will put the question without motion from the floor.

On April 7, 1909,[3] while the House was considering the tariff bill in the Committee of the Whole House on the state of the Union, Mr. George W. Norris, of Nebraska, offered a substitute for an amendment made in order by a special order under which the bill was being considered.

Mr. John Dalzell, of Pennsylvania, raised a point of order against the proposed substitute.

The Chairman[4] said:

It is undoubtedly true that if this paragraph, 637, were reached in due course in the reading of the bill under the ordinary practice by paragraphs for amendment under the five-minute rule, it would be subject to any germane amendment or amendment to an amendment which any gentleman might offer; and so, if any additional paragraph, to be numbered 36½, were to be offered, that would be subject to amendment. But this section has not been reached in the regular order of the reading of the bill, and it is amendable at this time only as provided in the special rule. We are proceeding under a special rule or order of the House, which so far as concerns this question, reads as follows:

"Resolved, That immediately upon the adoption hereof general debate on H. R. 1438, 'A bill to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes,' shall be closed, and the House shall resolve itself into Committee of the Whole House on the state of the Union for the consideration of said bill for amendment under

[1] First session Sixty-fourth Congress, Record, p. 8657.

[2] Scott Ferris, of Oklahoma, Chairman.

[3] First session, Sixty-first Congress, Record, p. 1167.

[4] Marlin E. Olmsted, of Pennsylvania, Chairman.

the five-minute rule; but committee amendments to any part of the bill shall be in order at any time, and also preference shall be given to amendments to paragraphs 196, 197, 708 (lumber), 581, 447½ (hides), 227 (barley), and 228 (barley malt).

"That an amendment shall be voted on to section 637, to wit: Strike out the proviso and insert as a new paragraph, No. 36½, the following:

'Crude petroleum and its products, 25 per cent ad valorem.'"

Now, it will be noticed that committee amendments are provided for; not any particular amendment; not just one single specified amendment, but amendments generally; also preferential amendments are permitted to certain specific paragraphs—196 and others. As to those matters, the preference is not given to any certain amendment. The rule says "amendments," which, of course, includes amendments to amendments, as the Chair has heretofore ruled. But when we come down to section 637 the rule does not permit of amendments. It declares that an amendment shall be voted on to section 637, to strike out certain things and insert to wit:

"Crude petroleum and its products, 25 per cent ad valorem."

That is the rule; that an amendment shall be voted on, which amendment shall be:

"Crude petroleum and its products, 25 per cent ad valorem."

The gentleman from New York, Mr. Vreeland, rose in his place and offered that amendment, thus bringing it before the committee. Any gentleman might have called it up perhaps at any time. Possibly the Chair itself might have called it up. The Chair treats the action of the gentleman from New York as simply calling the attention of the committee and the Chair, or bringing before the committee for its attention and action, the amendment which this rule provides shall be voted upon—

"Crude petroleum and its products, 25 per cent ad valorem."

Now, the gentleman from Nebraska, Mr. Norris, proposes another amendment to be voted on, namely—

"Crude petroleum and its products, 1 per cent ad valorem."

The effect of his amendment, if in order, would be to make it a preferential amendment that is to say, while the rule itself gives a preference, and in fact declares that a vote shall be taken upon a certain specific provision—

"Crude petroleum and its products, 25 per cent ad valorem"—

the effect of recognizing as in order the amendment of the gentleman from Nebraska would be not only to amend the rule itself, but actually to give to his amendment a preference over and above the precise amendment which the rule specifies as the one, and only one, to be voted upon. It is not for the Chair to determine whether this duty ought to be 1 per cent, or 25 per cent, or no duty at all. The Chair must simply rule upon the parliamentary situation, the proper construction of the rule.

The gentleman from Massachusetts, Mr. Gardner, called attention to a rule adopted on a former occasion, which provided for the taking of the vote upon a substitute amendment, providing that the vote "shall be taken without delay or intervening motion." That was a case in which motions for delay or intervening motions would have been in order without the rule, but this is just the reverse of that. This amendment itself would not be in order at this time except for the rule which makes it in order; while, as the Chair has stated, when this paragraph is reached in regular course on the reading of the bill any amendment would be in order, no amendment is in order now out of order except the precise amendment specified in the rule itself:

"Crude petroleum and its products, 25 per cent ad valorem."

The Chair must therefore sustain the point of order, and decline to entertain the amendment offered by the gentleman from Nebraska, which amendment proposes to change the terms of the rule or order of the House by striking out twenty-five and inserting one.

The ruling of the Chair is that when this paragraph is reached in regular order, or if it were now in regular order before the committee, any germane amendment would be in order, but that no amendment can now be recognized preferentially and out of the regular order except the particular amendment specified in the rule under which the committee is proceeding.

783. Under provision by special order that an amendment be read and considered in lieu of the bill, the amendment is treated as original text and is subject to amendment in the second degree.

When a special order provides for resolving into the Committee of the Whole, the House resolves automatically on announcement by the Speaker and without motion from the floor.

On January 9, 1919,[1] Mr. Hubert S. Dent, Jr., of Alabama, moved 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. 13274) to provide relief for informal contracts.

The Speaker[2] decided that under the special order adopted on the preceding day, providing for resolving into the Committee of the Whole, the House resolved automatically and a motion to resolve was unnecessary.

During the consideration of the bill by the committee,[3] Mr. James R. Mann, of Illinois, called attention to the provision of the special order authorizing the consideration of the committee amendment in lieu of the bill and inquired if amendments, and amendments to amendments, were in order.

The Chairman[4] held that under the special order the amendment was treated as the original text and amendments to amendments were in order and could not be ruled out as amendments of the third degree.

784. When a special order provides for the consideration of an amendment as the original bill, the amendment and not the bill is read when called up for consideration.

On June 23, 1921,[5] in the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 1837) amending the farm-loan act, Mr. Otis Wingo, of Arkansas, raised a question of order that the Clerk was not reading the Senate bill but an amendment to the bill reported by the Committee on Banking and Currency.

The Chairman[6] ruled that under the special order providing that the amendment reported by the committee be considered in lieu of the Senate bill, the amendment was read and not the original bill.

785. Under a special order providing for equal division of time for debate between those favoring and those opposing a bill, without designating who should control the time, it was held to be within the discretion of the Chair to recognize a Member supporting and a Member opposing the measure, each of whom should respectively control half the time.

Where a special order divides time for debate equally between those favoring and those opposing a proposition, the Members recognized to

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[1] Third session Sixty-fifth Congress, Record, p. 1183.

[2] Champ Clark, of Missouri, Speaker.

[3] Record, p. 1195.

[4] Charles R. Crisp, of Georgia, Chairman.

[5] First session Sixty-seventh Congress, Record, p. 2965.

[6] Martin D. Madden, of Illinois, Chairman.

control time are recognized for one-half the time even when in excess of the hour to which one Member is limited under the general rules of debate.

On December 18, 1929,[1] the House agreed to a resolution (H. Res. 102) authorizing consideration of the joint resolution (H. J. Res. 170) for a commission to study and review the policies of the United States in Haiti. The resolution provided for general debate "which shall be confined to the resolution and shall continue not to exceed three hours, to be equally divided and controlled by those favoring and opposing the resolution, the resolution shall be read for amendment under the 5-minute rule."

Following adoption of the resolution, Mr. George Huddleston, of Alabama, rose to a parliamentary inquiry and asked who would be entitled to recognition under the clause apportioning the time for debate between those favoring and those opposing the measure.

The Speaker[2] replied:

> The Chair would think that would be in the discretion of the Chairman of the Committee of the Whole.
>
> The Chair would think that the Member being recognized in favor of the proposition would be entitled to control half the time and the Member announcing himself opposed to the proposition would be entitled to control half of the time.

Mr. Huddleston called attention to the fact that under the rule such a course would give a Member so recognized an hour and a half, whereas under the general rules of the House no Member could be recognized for longer than one hour.

The Speaker said:

> The resolution provides that the time for general debate shall be equally divided and controlled by those favoring and opposing the resolution.
>
> The Chair would think that the Member announcing his opposition to the resolution would be entitled to control an hour and a half.

786. A Committee of the Whole may not alter, even by unanimous consent, an order of the House.

On July 21, 1921,[3] during the consideration of the tariff bill in the Committee of the Whole House on the state of the Union under a special order providing that the reading of the bill continue until 3 o'clock p. m. on July 21, at that hour Mr. Finis J. Garrett, of Tennessee, asked unanimous consent that the special order be amended to permit the remainder of the bill to be read under the 5-minute rule.

The Chairman[4] ruled that a special order of the House was not subject to amendment, even by unanimous consent, in the Committee of the Whole.

787. A motion to strike out the enacting clause is, in effect, a preferential amendment, and in order at any time recognition is secured to offer it during the reading of the bill for amendment.

A special order providing that a bill should be considered for amendment under the 5-minute rule was construed to admit the motion to strike out the enacting clause.

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[1] Second session Seventy-first Congress, Record, p. 907.

[2] Nicholas Longworth of Ohio, Speaker.

[3] First session Sixty-seventh Congress, Record, p. 4193.

[4] Philip P. Campbell, of Kansas, Chairman.

On December 3, 1918,[1] the House agreed to the following resolution:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of H. R. 12917, entitled "A bill to provide for the establishment of a sanatorium for the treatment of persons discharged from the military and naval forces of the United States and for other purposes"; that there shall be not to exceed one hour of general debate. At the conclusion of such general debate the bill shall be considered for amendment under the 5-minute rule. After the bill shall have been perfected in the Committee of the Whole House on the state of the Union the same shall be reported to the House with such recommendation as the committee may make, whereupon the previous question shall be considered as ordered upon the bill and all amendments thereto to final passage without intervening motion, except one motion to recommit.

On the following day, December 4, after general debate had been concluded, and while the bill was being read for amendment, Mr. William J. Graham, of Illinois, proposed to offer a motion to strike out the enacting clause.

The Chairman referred to a decision in the Fifty-fifth Congress[2] in which a special order providing that a bill should be open to amendment in Committee of the Whole was held to prevent a motion to strike out the enacting clause.

Mr. James R. Mann, of Illinois, discussed the question and said:

The Chair will recollect that the rule does not provide for the consideration of this bill. The rule only provides that it shall be in order to move in the House to go into Committee of the Whole House on the state of the Union for the consideration of the bill. Of course, that places the bill in the position that any bill would occupy where a motion was made at any time for its consideration in Committee of the Whole. The ruling cited by the Chairman was absolutely correct under the special rule at that time, but that is not the situation before the committee now. There was a rule specifically providing for a certain length of time for amendments. Now, this rule we are operating under provided first that it should be in order to go into the Committee of the Whole House on the state of the Union. That motion has been carried, and we are in the Committee of the Whole House on the state of the Union. The rule provides that at the conclusion of such general debate the bill shall be considered for amendment under the five-minute rule. As a matter of fact, the motion referred to by the Chair under the ruling cited apparently was made before the bill was read for amendment. Now the bill is being read for amendment, and the motion to strike out the enacting clause is an amendment. If the committee should agree to that amendment of course that ends it so far as the committee is concerned at the time, unless the House should decide on its being reported back to the House that it would not agree to the amendment; but the bill is now being read for amendment under the rule, and the motion to strike out the enacting clause is an amendment like any other amendment, except it takes precedence over other amendments.

The Chairman[3] decided that the motion to strike out the enacting clause was a preferential amendment and in order at any time the mover secured recognition to offer it during the reading of the bill for amendment.

788. A bill being under consideration by unanimous consent, the requirement that it shall be considered in the Committee of the Whole is waived.

On Monday, May 2, 1921,[4] a day set apart for the consideration of bills on the Unanimous Consent Calendar, the House, by unanimous consent, took up the con-

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[1] Third session Sixty-fifth Congress, Record, p. 106.

[2] Volume IV, section 3215, of this work.

[3] Martin D. Foster, of Illinois, Chairman.

[4] First session, Sixty-seventh Congress, Record, p. 931.

sideration of the joint resolution (S. J. Res. 20) making immediately available an appropriation for the construction of a dam.

Mr. William H. Stafford, of Wisconsin, made the point of order that the bill should be considered in the Committee of the Whole.

The Speaker [1] said:

It will be considered in the House. The Chair ruled once before that unanimous consent having been given for consideration a bill could be considered in the House. The question is on agreeing to the joint resolution.

789. Under a special order providing that the House shall resolve into Committee of the Whole, the House resolves automatically, and a motion to go into committee is not in order.

A special order providing for the consideration of a bill from day to day until disposed of includes Mondays and Fridays, but not Wednesdays.

Where a special order provided for the consideration of a bill from day to day until disposed of it was held that conference reports and messages from the Senate might intervene.

On October 1, 1918,[2] the House was proceeding from day to day under a special order providing:

Resolved, That immediately upon the adoption of this resolution the House shall resolve itself into Committee of the Whole House on the state of the Union for the consideration of H. R. 12776, entitled "A bill to provide further for the national security and defense and for the more effective prosecution of the war by furnishing means for the better utilization of the existing sources of electrical and mechanical power and for the development of new sources of such power, and for other purposes."

Mr. Thetus W. Sims, of Tennessee, moved that the House resolve itself into the Committee of the Whole for the consideration of the pending bill.

The Speaker [3] said:

It is not necessary for the gentleman to make that motion. The rule evidently contemplates the automatic going into Committee of the Whole.

The Chair has not had time to investigate it and does not know how far back it runs, but the question has been raised here three or four times, and the Chair has always ruled the same way. Evidently the first man who drew a rule like this one did it when somebody was conducting a systematic filibuster. There would be roll calls on everything, among other things on the motion to go into Committee of the Whole, and that would delay business. Evidently that was the origin of it. Of course, no condition of that kind exists here now, but still the Committee on Rules brought in this rule in the usual language, providing that immediately upon the adoption of the rule the House should resolve itself into the Committee of the Whole. If they do not want it that way, they ought not to bring in a rule of that kind; and if they do bring in a rule of that kind, Members ought to beat the rule. The Chair serves notice on the House that he is going to rule this way every time this kind of a rule comes up; and if the House does not like it, it has its remedy. The remedy is to appeal from the decision of the Chair. The House automatically resolves itself into the Committee of the Whole House on the state of the Union for the further consideration of the bid.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session, Sixty-fifth Congress, Record, p. 10994.

[3] Champ Clark, of Missouri. Speaker.

In response to a parliamentary inquiry submitted by Mr. Joseph Walsh, of Massachusetts, the Speaker ruled that the pending order was to be construed in the same manner as an order providing "and shall be a continuing order."

The Speaker further held the order to provide for the consideration of the bill on Mondays and Fridays but not on Wednesdays, and that it did not take precedence of conference reports or preclude the reception of messages from the Senate.

790. Under a special order that the House immediately resolve into Committee of the Whole, the House resolves into the committee automatically and the consideration of other business is not in order.

On November 10, 1919,[1] the House agreed to a special order providing:

Resolved, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 10453, being an act to provide for the termination of Federal control of the railroads, etc.

Thereupon the Speaker recognized Mr. Julius Kahn, of California, to call up a conference report.

Mr. Finis J. Garrett, of Tennessee said:

Mr. Speaker, I make the point of order that the resolution from the Committee on Rules which has just been adopted immediately resolved the House into the Committee of the Whole House on the state of the Union automatically. Now, all these matters that have come since have been out of order. The rule does not interfere with conference reports after the House has gone into Committee of the Whole House and risen again, but the rule when adopted puts the House into the Committee of the Whole House on the state of the Union at once.

The Speaker[2] sustained the point of order, and the House automatically resolved into the Committee of the Whole House on the state of the Union under the rule.

791. A special order providing that the House immediately resolve into Committee of the Whole is held to operate automatically.

A special order providing for the consideration of a bill until disposed of includes consideration on a Friday set apart by the rules for a class of business.

A special order was held in abeyance, no objection having been offered.

On Friday, December 5, 1919,[3] the House having previously adopted a special order providing:

That immediately upon the adoption of this rule the House shall resolve itself into Committee of the Whole House on the state of the Union for the consideration of H. R. 9755, being a bill to establish the standard of weights and measures for wheat and corn mill products—

on motion of Mr. Addison T. Smith, of Idaho, by unanimous consent, the bill (S. 1300) authorizing the sale of certain lands in Idaho, was taken from the Speaker's table, read a third time, and passed.

Whereupon, Mr. George W. Edmonds, of Pennsylvania, proposed to call up bills on the Private Calendar on which the third reading had been ordered on Friday, October 31, and which, under the rules, were in order on this Friday.

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[1] First session, Sixty-sixth Congress, Record, p. 8264.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session, Sixty-sixth Congress, Journal, p. 24; Record, p. 194.

Mr. Joseph Walsh, of Massachusetts, made the point of order that under the pending special order the House resolved into the Committee of the Whole automatically and no other business could be transacted.

The Speaker [1] said:

This rule is not entirely explicit, but the Chair is disposed to think that, in order to have an unbroken line of precedents and in order to make easier the task of the committee in the future in drawing rules, it would be wisest to hold that this rule does order that the House automatically go into Committee of the Whole.

If the Committee on Rules desires to make a bill privileged, it is easy to state that it shall be in order to move to go into Committee of the Whole, and that would always allow the House to exercise its will, because, particularly in the case of a bill which is likely to take up time, it is important that the House should each day have an opportunity to set it temporarily aside and not be obliged automatically to go into committee when there is other business it might desire to dispose of first.

Moreover, the Chair is troubled with the question which the gentleman from Massachusetts Mr. Walsh, asked—that if the Chair should hold that we did not automatically go into Committee of the Whole, inasmuch as the previous question has not been ordered on the bill and it is not unfinished business, just what claim would the bill have for consideration. The Chair would probably rule as he has before, that it was the intention to give it that privilege.

The Chair finds a precedent back in 1894 holding that on just such a resolution as this the House does automatically go into Committee of the Whole, and the Chair is informed that under the administrations of Speaker Clark and of Speaker Cannon that precedent was followed. So the Chair rules that the House automatically resolves itself into Committee of the Whole under the rule.

792. A special order making committee amendments to any part of the bill in order at any time was construed to permit the offering of amendments to paragraphs already passed in reading for amendment.

On August 19, 1921,[1] during consideration in Committee of the Whole House on the state of the Union of the revenue bill under special order, Mr. Nicholas Longworth, of Ohio, proposed to return to paragraphs passed in the reading of the bill for amendment, for the purpose of offering committee amendments.

Mr. Finis J. Garrett, of Tennessee, submitted an inquiry as to whether such procedure was in order without unanimous consent.

The Chairman [2] said:

That is the interpretation which the Chair thinks is warranted from the language of the third paragraph of the rule, which the Chair will read, and with which the gentleman is probably familiar:

"Thereafter the bill shall be considered for amendment under the five-minute rule. The committee amendments to any part of the bill shall be in order at any time and shall take precedence of other amendments."

The Chair thinks that that language will permit a committee amendment to be offered to any part of the bill, although that part of the bill had been read without any action having been taken or any amendments having been made to it.

793. A special order fixing a time beyond which consideration of a bill should not continue was held not to prevent conclusion of consideration prior to that time.

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[1] First session Sixty-seventh Congress, Record, p. 5276.

[2] Joseph Walsh, of Massachusetts, Chairman.

When provision is made by special order for the automatic rising of Committee of the Whole at a designated time, a motion is required to rise before that time, and is in order.

On November 29, 1922,[1] the bill (H. R. 12817) to amend the merchant marine act was being considered in Committee of the Whole House on the state of the Union under a special order providing "that consideration of the bill shall continue not later than 4 o'clock at which hour the committee shall rise and report the bill."

Prior to the time designated, Mr. William S. Greene, of Massachusetts, moved that the committee rise and report the bill to the House, with amendments, with recommendation that the amendments be agreed to and the bill as amended do pass.

Mr. Thomas L. Blanton, of Texas, made a point of order that under terms of the special order the consideration of the bill should not be discontinued until the hour of 4 o'clock had arrived.

The Chairman[2] decided:

> The Chair does not construe the rule as the gentleman from Texas construes it. As the Chair reads the rule, it means that at any time after the reading of the bill under the five-minute rule for amendment it would be in order by a vote of the Committee of the Whole to report the bill back to the House with such amendments as have been agreed to. In case the debate ran until 4 o'clock this afternoon it would be the duty of the Chair at that hour to declare that by the order of the House the committee should rise and report the bill to the House. Construing the rule in this way, and believing it to be the proper construction of the rule, the Chair overrules the point of order and will put the question.

Thereupon Mr. Finis J. Garrett, of Tennessee, called attention to the terms of the special order providing for the automatic rising of the committee.

The Chairman held that while the order provided for an automatic rising at 4 o'clock, a motion was required if the committee rose prior to that time.

794. Special orders are interpreted literally, and a rule providing that consideration of a bill continue until a specified time was held to preclude a motion to rise and report prior to that time.

Under terms of a special order providing that on adoption the House resolve into Committee of the Whole, the House resolves into the Committee automatically without motion from the floor.

Form of rule providing for consideration of a general tariff bill.

On May 24, 1929,[3] Mr. Bertrand H. Snell, of New York, by direction of the Committee on Rules, called up the following resolution:

> *Resolved,* That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 2667, entitled "A bill to provide revenue, to regular commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes"; that general debate on the bill be now closed; that the bill shall be considered for amendment under the 5-minute rule, but committee amendments to any part of the bill shall be in order at any time; that consideration of the bill for amendment shall continue until Tuesday, May 28, 1929, at 3 o'clock p. m., at which time the bill with all amendments that shall have been adopted

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[1] Third session Sixty-seventh Congress, Record, p. 427.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] First session Seventy-first Congress, Record, p. 1867.

by the Committee of the Whole shall be reported to the House, whereupon the previous question shall be considered as ordered on the bill and all amendments to final passage without intervening motion except one motion to recommit.

The vote on all amendments shall be taken en gros except when a separate vote is demanded by the Committee on Ways and Means on an amendment offered by said committee.

That said bill shall be the continuing order until its consideration is concluded, subject only to conference reports, privileged matters on the Speaker's table, and reports from the Committee on Rules.

After debate, the previous question was ordered, yeas 248, nays 138. The question recurring on the passage of the resolution, it was agreed to, yeas 234, nays 138.

Whereupon, the Speaker [1] announced:

Under the rule the House automatically resolves itself into the Committee of the Whole House on the state of the Union, and the gentleman from New York, Mr. Snell, will kindly take the chair.

On the following day,[2] after the reading and approval of the Journal, Mr. William B. Bankhead, of Alabama, rising to a parliamentary inquiry, called attention to the provision of the special order that debate should "continue until Tuesday, May 28, 1929, at 3 o'clock p. m.," and asked if it would be in order for the chairman of the committee in charge of the bill to move to rise prior to that time if consideration was sooner concluded.

The Speaker replied:

Replying to the parliamentary inquiry, the resolution provides, among other things, that the consideration of the bill for amendment shall continue until Tuesday, May 28, 1929, at 3 o'clock p. m. The Chair thinks that the committee could not rise and report the bill until 3 o'clock on Tuesday except by order of the House.

The Chair thinks the committee could not rise before that time, but, of course, a recess would be quite proper in such a contingency.

795. Where a special order provided for a vote on an amendment at a designated time, the Chairman at that time put the question, and pending amendments to the amendment were not acted upon.

On April 28, 1924,[3] the House was considering, in the Committee of the Whole House on the state of the Union, the bill (H. R. 7962) to regulate rents in the District of Columbia, under a special order which provided:

At the hour of 4 o'clock, if the consideration of the substitute shall not have been sooner completed, the committee shall vote upon the substitute as amended, if any amendments have been adopted, and immediately upon the conclusion of that vote the committee shall automatically rise and report the bill.

The hour of 4 o'clock having arrived, the Chairman put the question on the substitute. The substitute was agreed to.

Mr. Carl R. Chindblom, of Illinois, as a parliamentary inquiry, asked what disposition was made of a pending amendment to the substitute.

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] Record, p. 1922.

[3] First session sixty-eighth Congress, Record, p. 7424.

The Chairman [1] said:

It was not voted upon.
The hour of 4 o'clock having arrived, the committee will automatically rise.

796. Interpretation of a special order providing for consideration of Senate bills on the Private Calendar in the closing days of a session.

On February 26, 1931,[2] in anticipation of the close of the session, the House, by unanimous consent, agreed to this resolution:

Resolved, That on Monday next, March 2, 1931, it shall be in order to move that the House take a recess until 8 p. m., and that at the evening session until 11 o'clock p. m. it shall be in order to consider Senate bills on the Private Calendar unobjected to in the House as in the Committee of the Whole; and, further, that the Speaker may recognize Members to ask unanimous consent for the consideration of Senate bills on the Speaker's table where similar House bills have been reported by a committee of the House and are on the Private Calendar.

On March 2,[3] the Speaker,[4] referring to this resolution, said:

The Chair asked the parliamentarian to prepare a statement with regard to just what was covered in the arrangements for tonight. The Chair thinks that the orderly and fair way of complying with the resolution agreed to on February 26, 1931, would be to begin at the star and call each Senate bill on the Private Calendar and each Senate bill on the Speaker's table, where a similar House bill is on the Private Calendar, in their numerical order, in which both classes of bills appear on the Private Calendar. When that has been completed, the Chair should then recognize Members to ask unanimous consent to take Senate bills from the Speaker's table, where similar House bills are on the Private Calendar, before the star.

797. Form of special order authorizing motion to resolve into Committee of the Whole for the consideration of a bill with the usual provisions, for limitations on debate, control of time, and disposition in the House.

On February 21, 1925,[5] Mr. Theodore E. Burton, of Ohio, from the Committee on Rules, presented the following resolution, which was agreed to by the House:

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 H. R. 12348, "A bill to create a Federal cooperative marketing board, to provide for the registration of cooperative marketing, clearing house, and terminal market organizations, and for other purposes."

That after general debate, which shall be confined to the bill and shall continue not to exceed two hours, the time to be equally divided and controlled by those favoring and opposing, the bill shall be read for amendment under the five minute rule. At the conclusion of the reading 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 the amendments thereto to final passage without intervening motion except one motion to recommit.

798. On April 15, 1930,[6] Mr. Fred S. Purnell, of Indiana, by direction of the Committee on Rules, called up the resolution (H. Res. 205), which was agreed to as follows:

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[1] George S. Graham, of Pennsylvania, Chairman.

[2] Third session Seventy-first Congress, Record, p. 6147.

[3] Record, p. 6800.

[4] Nicholas. Longworth, of Ohio, Speaker.

[5] Second session, Sixty-eighth Congress, Record, p. 4334.

[6] Second session Seventy-first Congress, Record, p. 6851.

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 H. R. 10381, a bill to amend the World War veterans' act, 1924, as amended. That after general debate, which shall be confined to the bill and shall continue not to exceed 12 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on World War Veterans' Legislation, 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 bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion except one motion to recommit.

799. Form of special order for considering a Senate bill in the Committee of the Whole making in order House committee amendments and providing for separate vote on each.

On February 15, 1923,[1] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, presented a resolution which was amended and agreed to in the following form:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 4137. After general debate, which shall continue not to exceed one hour, to be equally divided and controlled between those for and those against the bill, said bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of a point of order House committee amendments recommended by the Committee on Naval Affairs now in the bill, and such amendments for the purpose of amendment shall be considered under the five minute rule as an original bill. At the conclusion of such consideration the committee shall rise and report the bill to the House with the committee amendments and such amendments to the committee amendments as may have been adopted (upon which a separate vote may be demanded), and the previous question shall be considered as ordered on the bill and all amendments thereto to final passage without intervening motion except one motion to recommit.

800. Form of special order for taking Senate bill from Speaker's table and considering House bill in lieu thereof in Committee of the Whole.

On May 3, 1921,[2] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, reported and the House agreed to the following:

Resolved, That immediately upon the adoption of this resolution it shall be in oder to take from the Speaker's table the bill (S. 1084) entitled "An act to provide for a national budget system and an independent audit of Government accounts, and for other purposes," and to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of such bill. After general debate, which shall continue for not to exceed two hours (one-half to be controlled by the gentleman from Iowa [Mr. Good] and one-half by the gentleman from Tennessee [Mr. Byrns]), the text of the bill (H. R. 30, Union Calendar No. 7) entitled "A bill to provide a national budget system and an independent audit of Government accounts, and for other purposes," when offered as a substitute for such Senate bill, shall be read for amendment under the five-minute rule and considered as an original bill in lieu of the text of such Senate bill. At the conclusion of such consideration the committee shall rise and report such Senate bill to the House with such amendments as may have been adopted, whereupon the previous question shall be considered as ordered on the bill and any amendments thereto to final passage without intervening motion, except one motion to recommit.

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[1] Fourth session, Sixty-seventh Congress, Record, p. 3703.

[2] First session, Sixty-seventh Congress, Record, p. 974.

801. Form of special order for consideration of committee amendment to a Senate bill on the House Calendar.

A Member in charge may yield for debate and retain control of the remainder of the time allotted, but in yielding for amendments thereby relinquishes the floor.

On April 17, 1926,[1] Mr. Earl C. Michener, of Michigan, for the Committee on Rules, called up the resolution (H. Res. 219), which was agreed to in the following form:

Resolved, That upon the adoption of this resolution it shall be in order to proceed to the consideration of the bill (S. 1039) to amend an act establishing a uniform system of bankruptcy, etc. When such bill is called up for consideration, the amendment proposed by the Committee on the Judiciary shall be read in lieu of the provisions of the Senate bill.

In response to inquiries from Mr. Finis J. Garrett, of Tennessee, the Speaker[2] held that under the rule the House substitute proposed by the Committee on the Judiciary would be considered as one amendment; that Mr. Michener would be recognized for one hour and could yield for debate or for amendment or could move the previous question; but in yielding for amendment he thereby yielded the floor and the member yielded to would then be recognized for one hour.

802. Form of special order for consideration of a resolution and report thereon in Committee of the Whole with provision for vote on a substitute.

On April 12, 1920,[3] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, presented the following resolution, which was agreed to by the House on a vote of yeas 154, nays 113:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move to go into Committee of the Whole House on the state of the Union for the consideration of H. Res. 515 and House Report No. 816 accompanying said resolution from the Select Committee on Expenditures in the War Department. That there shall be not to exceed four hours of general debate on said resolution and report, one-half to be controlled by the chairman of said committee, Mr. Graham of Illinois, and one-half by the gentleman from Michigan, Mr. Doremus. That the gentleman from Illinois, Mr. McKenzie, the gentleman from Ohio, Mr. McCulloch, and the gentleman from Michigan, Mr. Doremus, shall have leave to revise and extend their remarks on said resolution and report in the Record. That at the conclusion of the general debate the vote shall be taken on one substitute for the resolution, if any be offered. That upon the conclusion of the vote on said substitute and resolution in committee the committee shall rise and report the resolution or substitute, as the case may be, to the House; whereupon the previous question shall be considered as ordered on the resolution or substitute to final passage without intervening motion, except one motion to recommit.

803. Form of special order providing for consideration of House substitute for Senate bill regardless of the rule requiring germaneness.

Form of rule authorizing Members to demand a separate vote on each amendment recommended by the Committee of the Whole.

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[1] First session Sixty-ninth Congress, Record, p. 7671.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] Second session, Sixty-sixth Congress, Record, p. 5563.

On April 25, 1928,[1] Mr. Thomas S. Williams, of Illinois, by direction of the Committee on Rules, submitted the resolution (H. Res. 176), which was agreed to without division, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 3555, entitled "An act to establish a Federal farm board to aid in the control and disposition of the surplus of agricultural commodities in interstate and foreign commerce." That after general debate, which shall be confined to the bill and which shall continue not to exceed 12 hours, the time to be equally divided and controlled by those favoring and opposing the bill, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of the point of order as provided in clause 7 of Rule XVI the substitute committee amendment recommended by the Committee on Agriculture now in the bill, and such substitute for the purpose of amendment shall be considered under the five-minute rule as an original bill. At the conclusion of such consideration the committee shall rise and report the bill to the House with the committee substitute, as amended, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the committee substitute. The previous question shall be considered as ordered on the bill and committee substitute, including the amendments to the committee substitute thereto to final passage without intervening motion except one motion to recommit.

804. Form of special order providing for the consideration of a joint resolution in the House.

On April 8, 1920,[2] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, presented the following resolution, which the House agreed to, yeas 214, nays 155:

Resolved, That immediately upon the adoption of this resolution the House shall proceed to consider H. J. Res. 327, being a House joint resolution "terminating the state of war declared to exist April 6, 1917, between the Imperial German Government and the United States; permitting on conditions the resumption of reciprocal trade with Germany, and for other purposes." That the House shall meet at 11 o'clock antemeridian on Friday, April 9, 1920. That the House joint resolution shall be read in extenso. That general debate shall continue on said resolution until 5 o'clock postmeridian on Friday, April 9, 1920, the time to be controlled, one-half by the gentleman from Pennsylvania, Mr. Porter, and one-half by the gentleman from Virginia, Mr. Flood. That at the conclusion of the general debate the previous question shall be considered as ordered on the said House joint resolution to final passage without intervening motion, except one motion to recommit.

805. Form of special order for resolving automatically into Committee of the Whole for consideration of a bill with the usual provisions as to limit and control of debate.

On October 9, 1919,[3] the following resolution was reported from the Committee on Rules by Mr. Simeon D. Fess, of Ohio, and agreed to by the House:

Resolved, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 4438, being a bill to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise.

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[1] First session Seventieth Congress, Record, p. 7223.

[2] Second session, Sixty-sixth Congress, Record, p. 5336.

[3] First session. Sixty-sixth Congress Record, p. 6644.

That there shall be 2 hours and 30 minutes of general debate, one half to be controlled by those favoring the bill and one-half to be controlled by those opposing the bill.

That at the conclusion of the general debate the bill shall be read for amendment under the five-minute rule.

That the bill, together with the amendments, if any, shall be reported to the House.

Thereupon the previous question shall be considered as ordered on the bill and the amendments thereto for final passage without intervening motion except one motion to recommit.

806. Form of special order resolving the House automatically into the Committee of the Whole for the consideration of a bill.

On March 5, 1920[1] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, presented the following, which the House agreed to, yeas 147, nays 116:

Resolved, That on Saturday, the 6th day of March, 1920, the House shall meet at 11 o'clock a.m. That immediately after the reading of the Journal and the disposition of business upon the Speaker's table the House shall automatically resolve itself into the Committee of the Whole House on the state of the Union for the consideration of House Report No. 637, from the Committee on Expenditures in the War Department. That there shall be four hours allowed for debate upon said report, one-half to be controlled by the chairman of said committee and one-half by the gentleman from California, Mr. Lea. That the following members of said committee, Mr. Frear, of Wisconsin, Mr. Magee, of New York, and Mr. Lea of California, shall have leave to extend and revise such remarks as they may, respectively, make upon said report in the Congressional Record without further leave of the House. That upon the conclusion of said debate the Committee of the Whole House on the state of the Union shall automatically rise.

807. On January 20, 1930,[2] Mr. Earl C. Michener, of Michigan, by direction of the Committee on Rules, called up the following resolution (H. Res. 132):

Resolved, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 26, a bill for the acquisition, establishment, and development of the George Washington Memorial Parkway along the Potomac from Mount Vernon and Fort Washington to the Great Falls, and to provide for the acquisition of lands in the District of Columbia, and the States of Maryland and Virginia requisite to the comprehensive park, parkway, and playground system of the National Capital. That after general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Buildings and Grounds, 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 bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion except one motion to recommit.

The resolution was agreed to without amendment, and thereupon the Speaker[3] announced that in compliance with the provisions of the rule the House automatically resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill.

808. Form of special order providing for consideration of a bill with reservation as to days set apart by the rules for classes of business.

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[1] Second session, Sixty-sixth Congress, Record, p. 3931.

[2] Second session, Seventy-first Congress, Record, p. 2705.

[3] Nicholas Longworth, of Ohio, Speaker.

On May 8, 1922,[1] by direction of the Committee on Rules, Mr. Philip P. Campbell, of Kansas, submitted the following resolution, which was agreed to by the House:

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 H. R. 10972, a bill to readjust the pay and allowances of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, and Coast and Geodetic Survey, and Public Health Service.

The consideration of this bill thus made in order shall not displace business provided for on special days.

809. Form of special order for consideration of a bill in Committee of the Whole, providing for hour at which House shall meet during consideration.

On March 8, 1920,[2] Mr. Bertrand H. Snell, of New York, from the Committee on Rules, reported the following resolution, which was agreed to:

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 H. R. 12775, being a bill to amend an act entitled "An act for making further and more effectual provisions for the national defense, and for other purposes," approved June 3, 1916. That there shall be not to exceed six hours of general debate on said bill, to be confined to the subject matter of the bill, one-half of the time to be controlled by the gentleman from California, Mr. Kahn, and one-half by the gentleman from Alabama, Mr. Dent. That at the conclusion of the general debate the bill shall be read under the five-minute rule. That during the consideration of the bill the House shall meet at the hour of 11 o'clock antemeridian. That at the conclusion of the consideration of the bill for amendments the bill shall be reported to the House with amendments, if any, and the previous question shall be considered as ordered on the bill and all amendments thereto to final passage without intervening motion, except one motion to recommit.

810. Form of special order providing for the consideration, within certain limits of time, of a substitute in lieu of a pending bill, in the Committee of the Whole in the House.

On April 28, 1924,[3] the following resolution, presented by Mr. Bertrand H. Snell, of New York, from the Committee on Rules, was agreed to by the House, yeas, 67, nays, 32:

Resolved, That when the House proceeds in Committee of the Whole to the further consideration of H. R. 7962, entitled, "A bill to create and establish a commission as an independent establishment of the Federal Government to regulate rents of the District of Columbia," it shall be in order at any time to offer the following as a substitute for the text of the bill:

"Strike out all after the enacting clause and insert in lieu thereof the following:

"'That it is hereby declared that the emergency described in Title 11 of the food control and District rents act still exists and continues in the District of Columbia, and that the present housing and rental conditions therein require the further extension of the provisions of such title.

"'SEC. 2. That Title II of the food control and the District of Columbia rents act, as amended, is reenacted, extended, and continued, as hereinafter amended, until the 22d day of May, 1926, notwithstanding the provisions of section 2 of the act entitled "An act to extend for the period of

[1] Second session Sixty-seventh Congress, Record, p. 6531.

[2] Second session Sixty-sixth Congress, Record, p 4022.

[3] First session Sixty-eighth Congress, Record, p. 7373.

two years the provisions of Title II of the food control and the District of Columbia rents act, approved October 22, 1919, as amended," approved May 22, 1922.

"'SEC. 3. That subdivision (a) of section 102 of the food control and the District of Columbia rents act, as amended by section 4 of such act of May 22, 1922, is hereby amended by striking out the figures "1924" in said subdivision and inserting in lieu thereof the figures "1926".' "

Upon the offering of the substitute there shall be not to exceed two hours general debate, one-half to be controlled by those favoring the substitute and one-half by those opposing.

At the conclusion of the general debate the substitute shall be considered under the five-minute rule, and during that consideration it shall be in order to offer an amendment to the substitute providing for the reduction of number of commissioners provided for in said bill.

At the hour of 4 o'clock, if the consideration of the substitute shall not have been sooner completed, the committee shall vote upon the substitute as amended, if any amendments have been adopted, and immediately upon the conclusion of that vote the committee shall automatically rise and report the bill and any amendments, of the substitute and any amendments, to the House; and the previous question shall be considered as ordered on the bill and amendments for final passage.

811. Form of special order making it in order to Consider in the Committee of the Whole a bill on the House Calendar.

On December 19,192l,[1] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, presented the following, which was agreed to, yeas, 170, nays, 42:

Resolved, That upon the adoption of this resolution it shall be in order to consider H. R. 13 (House Calendar No. 98) in the Committee of the Whole House on the state of the Union as though the bill were on the Union Calendar. Thereupon 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 H. R. 13, being a bill "to assure to persons within the jurisdiction of every State the equal protection of the laws, and to punish the crime of lynching." That there shall be not to exceed 10 hours of general debate on said bill, one-half to be controlled by the gentleman from Minnesota (Mr. Volstead) and one-half by the gentleman from Texas (Mr. Sumners). At the conclusion of the general debate the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendments the committee shall rise and report the bill back to the House with the amendments, if any; the previous question shall be considered as ordered on the bill and on all amendments thereto to final passage, without intervening motion, except one motion to recommit.

812. Form of special order authorizing the motion to resolve into Committee of the Whole for consideration of a bill, with provision for termination of consideration on a day certain.

On November 22, 1922,[2] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, presented the following resolution, which was agreed to by the House:

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 purpose of considering H. R. 12817, a bill to amend and supplement the merchant marine act, 1920, and for other purposes. General debate on said bill shall continue until the Committee of the Whole House on the state of the Union rises on Saturday, November 25, at which time general debate shall terminate. The time for such general debate shall be controlled and divided equally between those in favor of and those opposing the bill and shall be controlled by the chairman and the ranking minority member opposed to the bill of the Committee on the Merchant Marine

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[1] Second session Sixty-seventh Congress, Record, p. 541.

[2] Third session Sixty-seventh Congress, Record, p. 37.

and Fisheries; that on Monday, November 27, the bill shall be taken up for amendment under the five-minute rule; that the consideration of the bill for amendments shall continue not later than the hour of 4 o'clock postmeridian on November 29, at which hour the committee shall rise and report the bill back to the House with such amendments as may have been agreed upon; whereupon the previous question shall be considered as ordered on the bill and on all amendments thereto to final passage without intervening motion except one motion to recommit; that in consideration of the bill any appropriation made in the bill shall not be subject to a point of order.

813. Form of special order for considering a bill in Committee of the Whole, with clause exempting provisions from points of order.

On February 27, 1923,[1] Mr. Bertrand H. Snell, of New York, from the Committee on Rules, presented the following resolution, which was agreed to by the House:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 4197) entitled "An act to authorize the Secretary of the Interior to issue to certain persons and certain corporations permits to explore, or leases of, certain lands that lie south of the medial line of the main channel of Red River, in Oklahoma, and for other purposes." After general debate, which shall continue not to exceed 30 minutes, to be equally divided and controlled between those for and against the bill, the bill shall be read for amendment under the five-minute rule. At the conclusion of such consideration the committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered ordered on the bill to final passage without intervening motion except one motion to recommit. The provisions of the bill shall be considered without the intervention of a point of order.

814. Form of special rule making in order all provisions of a bill pending in the House, and all portions of the bill as reported and previously stricken out on points of order.

On January 26, 1920,[2] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, reported the following resolution, which was agreed to—yeas 311, nays 9:

Resolved, That during the further consideration of the bill (H. R. 11960) making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1921, in Committee of the Whole House on the state of the Union, it shall be in order to consider, without the intervention of a point of order, any section of the bill as reported; and, upon motion authorized by the Committee on Foreign Affairs, it shall be in order to insert in any part of the bill any provision reported as part of the bill and heretofore ruled out on a point of order.

815. Form of special order providing for the consideration successively of certain joint resolutions in Committee of the Whole.

On January 30, 1923,[3] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, reported the following resolution, which was agreed to:

Resolved, That upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of Senate Joint Resolution No. 12; that there shall be not to exceed one hour additional general debate on said resolution, one-half of the time to be controlled by those favoring the resolution and one-half by those opposing it. Upon the conclusion of such general debate the resolution shall be read for amendment under the five-minute rule, whereupon the resolution with amendments, if any, shall be reported back to the House, the previous question shall be considered as ordered

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[1] Fourth session Sixty-seventh Congress, Record, p. 4805.

[2] Second session Sixty-seventh Congress, p. 2063.

[3] Fourth session Sixty-seventh Congress, Record, p. 2728.

on said resolution and all amendments thereto to final passage without intervening motion except one motion to recommit.

That immediately upon the conclusion of the consideration of Senate Joint Resolution No. 12 in the House, the House shall resolve itself into the Committee of the Whole House on the state of the Union for the consideration of Senate Joint Resolution No. 79; there shall be not to exceed one hour and thirty minutes general debate on said resolution, one-half of the time to be controlled by those favoring the resolution and one-half by those opposing it; that at the conclusion of the general debate the resolution shall be read for amendments under the five-minute rule, whereupon the resolution with amendments, if any, shall be reported back to the House, the previous question shall be considered as ordered on the resolution and the amendments thereto to final passage without intervening motion except one motion to recommit.

816. Form of special order for consideration of a bill in Committee of the Whole and in the House, with provisions for daily recess and evening sessions.

On May 20, 1924,[1] by a vote of yeas 271, nays 47, the House agreed to the following resolution presented by Mr. Bertrand H. Snell, of New York, from the Committee on Rules:

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 H. R. 9033, entitled "A bill declaring an emergency in respect of certain agricultural commodities, to promote equality between agricultural commodities and other commodities, and for other purposes."

That after general debate, which shall be confined to the bill and shall continue not to exceed 15 hours, and during the general debate the House shall recess each day from 6 o'clock p. m. until 8 o'clock p. m., the time to be equally divided and controlled by these favoring and opposing, the bill shall be read for amendment under the five-minute rule. At the conclusion of the reading 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 the amendments thereto to final passage without intervening motion except one motion to recommit.

817. Form of special order for the consideration, successively, of a number of bills in designated order in Committee of the Whole and in the House, excepting days set apart by the rules for certain classes of business and providing against interference with other business privileged under the rules.

On August 11, 1914,[2] Mr. Martin D. Foster, of Illinois, from the Committee on Rules, presented a resolution, which was amended and agreed to, as follow:

Resolved, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the consideration in the order named of the following bills, to wit:

1. H. R. 16673. To provide for the development of water power and the use of public lands in relation thereto, and for other purposes. The first reading of the bill shall be dispensed with, and there shall not be exceeding four hours of general debate, to be equally divided between those who favor and those who oppose the same, one half of such time to be controlled by the gentleman from Oklahoma [Mr. Ferris] and the other half by the gentleman from Wisconsin [Mr. Lenroot]. At the conclusion of such general debate the bill shall be considered in the Committee of the

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[1] First session Sixty-eighth Congress, Record, p. 9015.

[2] Second session Sixty-third Congress, Record, p. 13617.

Whole House on the state of the Union and shall be read for amendment under the five-minute rule. After the bill shall have been perfected in the Committee of the Whole the same shall be reported to the House with such recommendations as the committee may make.

2. H. R. 14233. To provide for the leasing of coal lands in the Territory of Alaska, and for other purposes. The first reading of the bill shall be dispensed with, and there shall be not exceeding six hours of general debate on the bill, to be equally divided between those who favor and those who oppose the same, one half of such time to be controlled by the gentleman from Oklahoma [Mr. Ferris] and the other half by the gentleman from Wisconsin [Mr. Lenroot). At the conclusion of such general debate the bill shall be read for amendment under the five-minute rule. After the bill shall have been perfected in the Committee of the Whole the same shall be reported to the House with such recommendations as the committee may make.

3. H. R. 16136. To authorize exploration for and disposition of coal, oil, gas, potassium, or sodium. The first reading of the bill shall be dispensed with, and there shall not be exceeding four hours of general debate, to be equally divided between those who favor and those who oppose the same, one half of such time to be controlled by the gentleman from Oklahoma [Mr. Ferris] and the other half by the gentleman from Wisconsin [Mr. Lenroot]. At the conclusion of such general debate the bill shall be considered in the Committee of the Whole House on the state of the Union and shall be read for amendment under the five-minute rule. After the bill shall have been perfected in the Committee of the Whole the same shall be reported to the House with such recommendations as the committee may make.

4. E. R. 12741. To provide for and encourage the prospecting, mining, and treatment of radium-bearing ores in lands belonging to the United States, for the purpose of securing an adequate supply of radium for Government and other hospitals in the United States, and for other purposes. The first reading of the bill shall be dispensed with, and there shall not be exceeding four hours of general debate, to be equally divided between those who favor and those who oppose the same, one half of such time to be controlled by the gentleman from Illinois [Mr. Foster] and the other half by the gentleman from Utah [Mr. Howell]. At the conclusion of such general debate the bill shall be considered for amendment under the five-minute rule. After the bill shall have been perfected in the Committee of the Whole the same shall be reported to the House with such recommendations as the committee may make.

5. S. 4628. Extending the period of payment under reclamation projects, and for other purposes. The first reading of the bill shall be dispensed with, and there shall be not exceeding two hours of general debate—to be divided equally between those who favor and those who oppose the bill, one half of such time to be controlled by the gentleman from Texas [Mr. Smith] and the other half by the gentleman from Nebraska [Mr. Kinkaid]. At the conclusion of such general debate the bill shall be considered in the Committee of the Whole House on the state of the Union and shall be read for amendment under the five-minute rule. After the bill shall have been perfected in the Committee of the Whole the same shall be reported to the House with such recommendation as the committee may make.

At the conclusion of the consideration of each bill above specified in the Committee of the Whole, the committee shall rise and report the same to the House, whereupon the previous question shall be considered as ordered upon each bill and amendments thereto to final passage, without intervening motion, except one motion to recommit on each of said bills.

The order of business provided by this resolution shall be the continuing order of business of the House until concluded, except that it shall not interfere with Calendar Wednesday, unanimous-consent, or District days, and business in order on Fridays, nor with the consideration of appropriation bills, or bills relating to the revenue and the bonded debt of the United States, nor with the consideration of conference reports on bills, nor the sending of bills to conference. All debate shall be confined to the subject matter of the bill then under consideration, and all Members speaking upon any of said bills shall have the right to revise and extend their remarks in the Record, and all Members shall have the right to print remarks on any of said bills during not exceeding five legislative days.

818. Form of special order for assigning a day for consideration in the House of bills reported from a certain committee.

On May 24,1922,[1] Mr. Bertrand H. Snell, of New York, from the Committee on Rules, submitted the following resolution, which was agreed to:

Resolved, That upon the adoption of this resolution the Committee on Agriculture shall have three legislative days prior to June 10, 1922, for the consideration of bills reported by that committee now on the House or Union calendars, this rule not to interfere with privileged business.

819. Form of special order discharging committee from consideration of House bill with Senate amendments and providing for consideration in Committee of the Whole.

On May 25, 1920,[2] Mr. Simeon D. Fess, of Ohio, presented, as privileged, the following resolution from the Committee on Rules, which was agreed to by the House:

Resolved, That immediately upon the adoption of this resolution the Committee on Education be, and the same is hereby, discharged from the further consideration of the bill (H. R. 4438) to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment, with the Senate amendment thereto, and it shall be in order to consider the same in the House as in the Committee of the Whole.

820. Form of special order discharging committee from consideration of bill with Senate amendments and providing for conference.

On March 19, 1920,[3] Mr. Bertrand H. Snell, of New York, from the Committee on Rules, presented the following resolution:

Resolved, That immediately upon the adoption of this resolution the Committee of the Whole House on the state of the Union shall be discharged from the consideration of the bill H. R. 11927 entitled "An act to increase the efficiency of the personnel of the Navy and Coast Guard through the temporary provision of bonuses or increased compensation," and the Senate amendments thereto; that the said Senate amendments be, and hereby are, disagreed to by the House; the conference requested by the Senate on the disagreeing votes of the two Houses on the said bill be, and hereby is, agreed to by the House, and the Speaker shall immediately appoint the conferees without intervening motion.

A motion by Mr. Snell for the previous question on the resolution was disagreed to, yeas 136, nays 153.

Whereupon, Mr. Edward W. Pou, of North Carolina, offered a substitute, which was agreed to, as follows:

Resolved, That immediately upon the adoption of this resolution the Committee of the Whole House on the state of the Union shall be discharged from the consideration of the bill H. R. 11927, entitled "An act to increase the efficiency of the personnel of the Navy and Coast Guard through the temporary provision of bonuses or increased compensation," and the Senate amendments thereto; and it shall be in order to move that the House disagree to the Senate amendments and agree to the conference requested by the Senate, and the Speaker shall appoint the conferees: *Provided,* That during the consideration of same it shall be in order to make all motions in order under the general rules of the House.

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[1] Second session Sixty-seventh Congress, Record, p. 7576.

[2] Second session Sixty-sixth Congress, Record, p. 7593.

[3] Second session Sixty-sixth Congress, Record, p. 4608.

821. Form of special order discharging committee from further consideration of House bill with Senate amendments and asking conference.

On April 25, 1916,[1] Mr. Edward W. Pou, of North Carolina, from the Committee on Rules, presented the following resolution, which was agreed to by a vote of yeas 207, nays 144:

Resolved, That upon the adoption of this resolution the Committee on Military Affairs be, and is hereby, discharged from the consideration of H. R. 12766, a bill to increase the efficiency of the Military Establishment of the United States, with the Senate amendments thereto; that the said Senate amendments be, and are hereby, disagreed to by the House and a conference asked of the Senate on the disagreeing votes of the two Houses on the said bill; and the Speaker shall immediately appoint the managers on the part of the House, without intervening motion, except one motion to recommit.

822. Forms of special order making in order a motion to take from the Speaker's table and send to conference bill with Senate amendments.

On May 5, 1922,[2] the following resolution was reported by Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, and agreed to by the House:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move to take from the Speaker's table the bill H. R. 9103, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate, which motion shall be agreed to without intervening motion, except one motion to recommit.

823. On September 22, 1919,[3] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, reported and the House agreed to the following resolution:

Resolved, That immediately upon the adoption of this resolution it shall be in order to take from the Speaker's table H. R. 8624, the same being "An act to amend an act entitled 'An act to provide further for the national security and defense by encouraging the production, conserving the supply and controlling the distribution of food products and fuel, approved August 10, 1917,'" disagree to all Senate amendments, and send the same to conference without intervening motion or debate.

824. On September 11, 1913,[4] Mr. Robert L. Henry, of Texas, from the Committee on Rules, reported the following resolution, which was agreed to by the House:

Resolved, That upon the adoption of this resolution it shall be in order to move to nonconcur in gross in the Senate amendments to H. R. 3321 and agree to a committee of conference asked for by the Senate on the disagreeing votes of the two Houses, and the House shall without further delay proceed to vote upon said motion; and if said motion shall prevail a committee of conference shall be appointed without instructions, and said committee shall have authority to join with the Senate committee in renumbering the paragraphs and sections of said bill when finally agreed upon.

825. Form of special order authorizing a motion to consider Senate amendments in Committee of the Whole.

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[1] First session Sixty-fourth Congress, Record, p. 6814.

[2] Second session Sixty-seventh Congress, Record, p. 6405.

[3] First session Sixty-sixth Congress, Record, p. 5723.

[4] First session Sixty-third Congress, Record, p. 4713.

On August 16, 1921,[1] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, reported the following resolution, which was agreed to by the House:

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 amendments of the Senate to the bill (H. R. 7294) entitled "An act, supplemental to the national prohibition act," under the five-minute rule. After the completion of such consideration the committee shall arise and report the amendments of the Senate to the House with such recommendation as may have been adopted, whereupon the previous question shall be considered as ordered on the Senate amendments and all motions incidental thereto recommended by the committee to final passage without intervening motion except one motion to recommit.

826. Form of special order taking from the Speaker's table and sending to conference a House bill with Senate amendments.

On September 1, 1922,[2] Mr. Bertrand H. Snell, of New York, from the Committee on Rules, presented and the House agreed to the following:

Resolved, That immediately upon the adoption of this resolution the bill H. R. 10874, together with the amendments of the Senate thereto, be taken from the Speaker's table; that the amendments of the Senate thereto be disagreed to in gross; that the conference asked by the Senate be agreed to; and that the Speaker without intervening motion appoint managers on the part of the House.

827. On April 2, 1930,[3] Mr. Bertrand H. Snell, of New York, by direction of the Committee on Rules, called up the resolution (H. Res. 197) making it in order to send to conference the Hawley-Smoot tariff bill and providing as follows:

Resolved, That immediately upon the adoption of this resolution the bill H. R. 2667 with Senate amendments thereto be, and the same hereby is, taken from the Speaker's table to the end that all Senate amendments be and the same are, disagreed to, and a conference is requested with the Senate upon the disagreeing votes of the two Houses.

The previous question was ordered, yeas 238, nays 153, and the question recurring on the passage of the resolution it was agreed to, yeas 241, nays 153.

828. Form of special order for consideration of a conference report without intervention of points of order.

On July 31, 1909,[4] the House agreed to the following resolution presented by Mr. John Dalzell, of Pennsylvania, from the Committee on Rules:

Resolved, That immediately upon the adoption of this order the House shall proceed to consider the report of the managers of the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 1438) to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes; that none of the provisions of said report shall be subject to a point of order; that general debate shall continue until 8 o'clock p. m. of this day, unless sooner concluded, and that immediately upon the conclusion of general debate the previous question shall be considered as ordered on the motion to agree to the report; and that general leave to print on the subjects of this report shall be granted for ten calendar days.

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[1] First session Sixty-seventh Congress, Record, p. 5067.

[2] Second session Sixty-seventh Congress, Record, p. 12118.

[3] Second session Seventy-first Congress, Record, p. 6383.

[4] First session Sixty-first Congress, Record, p. 4688.

829. Forms of special order for considering in the Committee of the Whole and in the House, within certain limits of time, a general tariff bill.[1]

On April 6, 1909,[2] Mr. John Dalzell, of Pennsylvania, from the Committee on Rules, presented the following special order for consideration of the general (called the Payne-Aldrich) tariff bill, which was agreed to:

Resolved, That immediately upon the adoption hereof general debate on H. R. 1438, "A bill to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," shall be closed, and the House shall resolve itself into Committee of the Whole House on the state of the Union for the consideration of said bill for amendment under the five-minute rule; but committee amendments to any part of the bill shall be in order at any time, and also preference shall be given to amendments to paragraphs 196, 197, 708 (lumber), 581, 447½ (hides), 227 (barley), and 228 (barley malt).

That an amendment shall be voted on to section 637, to wit: Strike out the proviso and insert as a new paragraph, No. 36½, the following: "Crude petroleum and its products, 25 per cent ad valorem."

That said specified amendments shall take precedence of committee amendments.

That consideration of said bill for amendment shall continue until not later than Friday, the 9th day of April, at 3 o'clock p.m., at which time the said bill, with all amendments that shall have been recommended by the Committee of the Whole House on the state of the Union, shall be reported to the House, and the previous question shall then be considered as ordered on said amendments and said bill to its engrossment, third reading, and final passage.

A separate vote may be had on the amendments relating to hides, lumber, oil, barley, barley malt, tea, coffee, or any of them, irrespective of their adoption or rejection in Committee of the Whole, and the vote upon all other amendments in gross.

That the daily hour of meeting hereafter shall be 12 o'clock noon.

830. On July 12, 1921,[3] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, presented and the House adopted this special order for the consideration of the general (called the Fordney) tariff bill:

Resolved, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 7456) entitled "A bill to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, and for other purposes."

That general debate shall be confined to the bill and be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and shall terminate when the Committee of the Whole arises on July 14, 1921.

Thereafter the bill shall be considered for amendment under the five-minute rule, but committee amendments to any part of the bill shall be in order any time, as shall also amendments to paragraph 1582 (hides); paragraph 27 (dyestuffs); paragraph 89 (oil); paragraph 1557 (cotton); and paragraph 207 (asphalt).

That said specified amendments shall take precedence of committee amendments to other paragraphs.

That clause 3 of Rule XXI shall not apply to committee amendments.

That consideration of the bill for amendment shall continue until Thursday, July 21, at 3 o'clock postmeridian, at which time the bill with all amendments that shall have been adopted by the Committee of the Whole shall be reported to the House, whereupon the previous question

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[1] No special order was adopted for consideration of the general (known as the Underwood) tariff bill passed in the first session of the Sixty-third Congress.

[2] First session Sixty-first Congress, Record, p. 1112.

[3] First session Sixty-seventh Congress, Record, p. 3607.

shall be considered as ordered on the bill and all amendments to final passage without intervening motion except one motion to recommit.

A separate vote may be had on amendments relating to the paragraphs enumerated above irrespective of their adoption or rejection in the Committee of the Whole, and the vote on all other amendments shall be taken in gross except when a separate vote is requested by the Ways and Means Committee on an amendment offered by said committee.

That during the consideration of the bill (H. R. 7456) the daily hour of meeting shall be at 11 o'clock antemeridian.

That said bill shall be the continuing order until its consideration is concluded, subject only to conference reports, privileged matters on the Speaker's table, and reports from the Committee on Rules.

That until July 28 all Members shall have leave to extend their own remarks on the bill in the Record.

831. Form of special order authorizing consideration of amendments not otherwise in order.

On December 16, 1922,[1] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, reported the following resolution, which was agreed to by a vote of yeas 251, nays 9:

Resolved, That during the consideration of the bill H. R. 13374, making appropriations for the Navy Department and the naval service for the fiscal year 1924, it shall be in order to consider, without the intervention of a point of order, provisions of the bill or germane amendments thereto relating to appropriations to procure, purchase, manufacture, or construct additional aircraft for the Naval Establishment, including the necessary spare parts and equipment therefor, at a total cost not exceeding $5,798,950, and also that part of the appropriation bill on page 55, lines 12 to 17, inclusive.

832. Form of special order authorizing consideration of a bill in Committee of the Whole without intervention of points of order either against provisions of the original bill or certain amendments recommended by the committee reporting the bill.

On May 4, 1912,[2] Mr. Robert L. Henry, of Texas, from the Committee on Rules, presented the following resolution which was agreed to—yeas 138, nays 107:

Resolved, That in the consideration of the bill (H. R. 24023) making appropriations for the legislative, executive, and judicial expenses of the Government, and for other purposes, in the Committee of the Whole House on the state of the Union, it shall be in order to consider without intervention of a point of order any section of the bill as reported, and an amendment authorized by the Committee on Appropriations as a committee amendment, to read as follows:

"Hereafter the administrative examination of all public accounts, preliminary to their audit by the accounting officers of the Treasury, shall be made as contemplated by the so-called Dockery Act, approved July 31, 1894, and all vouchers and pay rolls shall be prepared and examined by and through the administrative heads of divisions and bureaus in the executive departments and not by the disbursing clerks of said departments, except that the disbursing officers shall make only such examination of all vouchers as may be necessary to ascertain whether they represent legal claims against the United States."

833. Form of special order providing for suspension of rules on other than a suspension day.

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[1] Fourth session Sixty-seventh Congress, Record, p. 573.

[2] Second session Sixty-second Congress, Record, p. 5891.

On January 23, 1920,[1] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, submitted, as privileged, the following resolution, which was agreed to—yeas 297, nays 30:

Resolved, That immediately upon the adoption of this rule it shall be in order for the Speaker to recognize the Member in charge of H. R. 11927 to move to suspend the rules and pass the bill being a bill "To increase the efficiency and personnel of the Navy and Coast Guard through temporary provision of bonus or increased compensation," the general rules of the House to the contrary notwithstanding.

834. Form of special order providing temporarily for an additional suspension day.

On February 10, 1925,[2] Mr. Bertrand H. Snell, of New York, from the Committee on Rules, presented the following resolution, which was agreed to by the House:

Resolved, That it shall be in order on Tuesday, February 10, 1925, after the adoption of this resolution, to move to suspend the rules under the provisions of Rule XXVII of the House of Representatives.

835. Example of special order providing for temporary modification of a rule.

On February 26, 1909,[3] Mr. John Dalzell, of Pennsylvania, from the Committee on Rules, presented the following resolution, which was agreed to by the House—yeas 108, nays 91:

Resolved, That during the remainder of this session Rule XXVIII shall be, and hereby is, modified in the following particular:

"The vote on agreeing to the motion shall in all cases be by majority instead of by two-thirds; and upon the demand of any Member opposed to the motion, a second shall be considered as ordered."

836. Form of resolution making in order motions to suspend the rules during the remainder of a session.

On June 26, 1930,[4] and before the date for final adjournment of the current session of Congress had been set, Mr. Bertrand H. Snell, of New York, by direction of the Committee on Rules called up the following resolution, which was agreed to—yeas 228, nays 139:

Resolved, That it shall be in order beginning on Thursday, June 26, 1930, until the end of the present session of Congress, for the Speaker to recognize Members for motions to suspend the rules.

837. Forms of special order conferring privileged status on a bill.

On May 23, 1922,[5] the following resolution was presented by Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, and agreed to without division:

Resolved, That upon the adoption of this resolution it shall be in order to consider the bill H. R. 9527, being "A bill to amend section 5136, Revised Statutes of the United States, relating

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[1] Second session Sixty-sixth Congress, Record, p. 1953.

[2] Second session Sixty-eighth Congress, Record, p. 3391.

[3] Second session Sixtieth Congress, Record, p. 3310.

[4] Second session Seventy-first Congress, Record, p. 11821.

[5] Second session Sixty-seventh Congress, Record, p. 7488.

to corporate powers of associations, so as to provide succession thereof until dissolved, and to apply said section as so amended to all national banking associations."

838. On December 9, 1921,[1] the House agreed to the following resolution reported by Mr. Bertrand H. Snell, of New York from the Committee on Rules:

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 H. R. 9103, "A bill for the appointment of additional district judges for certain courts of the United States, to provide for annual conferences of certain judges of United States courts, to authorize the designation, assignment, and appointment of judges outside their districts and for other purposes," and to consider the same under the general rules of the House.

839. On June 30, 1922,[2] Mr. Simeon D. Fess, of Ohio, from the Committee on Rules, submitted and the House agreed to the following:

Resolved, That upon the adoption of this resolution it shall be in order for the Committee on Foreign Affairs to call up for consideration the joint resolution (H. J. Res. 322), being a joint resolution favoring the establishment in Palestine of a national home for the Jewish people; that there shall be not to exceed two hours' debate on said joint resolution, to be controlled by the gentleman from New York, Mr. Fish.

840. Form of special order conferring privileged status on a number of bills not to interfere with the consideration of privileged business.

On March 1, 1922,[3] on report from the Committee on Rules, presented by Mr. Philip P. Campbell, of Kansas, the House agreed to the following:

Resolved, That upon the adoption of this resolution it shall be in order to consider, under the general rules of the House, H. J. Res. 263 (reported by the Committee on Military Affairs), S. J. Res. 125 (reported by the Committee on Military Affairs), S. 2492 (reported by the Committee on Military Affairs), H. R. 8475 (reported by the Committee on Military Affairs). The consideration of these bills not to interfere with conference reports, bills from the Committee on Ways and Means, bills from the Committee on Appropriations, or other privileged business.

841. Form of special order conferring upon a bill for the current session the status enjoyed by bills reported from committees having leave to report at any time.

On January 8, 1908,[4] the Committee on Rules reported, through Mr. John Dalzell, of Pennsylvania, the following resolution, which was agreed to:

Resolved, That during this session a motion to go into Committee of the Whole House on the state of the Union to consider the bill (H. R. 11701) to codify, revise, and amend the penal laws of the United States shall have the privilege belonging to the similar motion when applied to bills reported from committees having leave to report at any time: *And provided further,* That there shall be not to exceed four hours of general debate on the said bill, after which it shall be considered for amendment under the five-minute rule.

842. Form of special order authorizing a committee to call up a bill for consideration with reservations as to certain privileged business.

On April 25, 1922,[5] the House agreed to the following resolution, reported by Mr. Philip P. Campbell, of Kansas, from the Committee on Rules:

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[1] Second session Sixty-seventh Congress, Record, p. 146.

[2] Second session Sixty-seventh Congress, Record, p. 9799.

[3] Second session Sixty-seventh Congress, Record, p. 3210.

[4] First session Sixtieth Congress, Record, p. 539.

[5] Second session Sixty-seventh Congress, Record, p. 5963.

Resolved, That upon the adoption of this resolution it shall be in order for the Committee on Interstate and Foreign Commerce to call up for consideration under the general rules of the House H.R. 10598, being a bill to prevent the use of the United States mails and other agencies of interstate commerce for transporting and for promoting or procuring the sale of securities contrary to the laws of the States, and for other purposes, and providing penalties for the violation thereof. Consideration of the bill not to interfere with bills from the Committee on Appropriations, the Committee on Ways and Means, or conference reports.

843. Form of special order for consideration of a House bill with provision for substitution of Senate bill in Committee of the Whole.

On June 2, 1922,[1] the following resolution reported by Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, was agreed to:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of H.R. 6043, a bill to amend paragraphs entitled "First" and "Second" of section 19a of the Interstate Commerce act, as amended; that in consideration of said bill it shall be in order to move to substitute Senate bill 539 for the House bill, and that the House bill lie upon the table; that there shall be not to exceed three hours of debate upon said bill; that at the conclusion of the general debate the bill shall be read for amendment, whereupon the bill with the amendments, if any, shall be reported back to the House; the previous question shall be considered as ordered on the bill and on all amendments thereto to final passage,without intervening motion except one motion to recommit.

844. Form of special order authorizing the consideration of an amendment to a general appropriation bill.

On December 19, 1916,[2] Mr. Robert L. Henry, of Texas, from the Committee on Rules, presented the following resolution, which was agreed to:

Resolved, That it shall be in order to consider an amendment to a bill (H.R. 18542) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1918, and for other purposes, as follows, notwithstanding the general rules of the House:

"That to provide during the fiscal year 1918 for increased compensation at the rate of 10 per cent per annum to employees who receive salaries at a rate of compensation less than $1,200, and for increased compensation at the rate of 5 per cent per annum to employees who receive salaries at a rate not more than $1,800 per annum and not less than $1,200 per annum, so much as may be necessary is appropriated: *Provided,* That this section shall only apply to the employees of the Library of Congress, the Botanic Garden, and the executive and judicial establishments who are appropriated for in this act specifically and under lump sums or whose employment is authorized herein: *Provided further,* That detailed reports shall be submitted to Congress on the first day of the next session showing the number of persons, grades, or character of positions, the original rates of compensation, and the increased rates of compensation provided for herein": And be it further

Resolved, That no amendment shall be in order in the consideration of the foregoing amendment changing existing law beyond the fiscal year 1918, nor shall any amendment be in order relating to the compensation of employees not appropriated for in H.R. 18542.

845. Form of resolution making in order proposed amendments to a general appropriation bill otherwise not germane and not previously authorized by law.

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[1] Second session Sixty-seventh Congress, Record, p. 8051.

[2] Second session Sixty-fourth Congress, Record, p. 571.

On May 18, 1928,[1] Mr. Bertrand H. Snell, of New York, by direction of the Committee on Rules, presented the following resolution, which was agreed to without division or debate:

Resolved, That after the adoption of this rule it shall be in order in the consideration of H.R. 13873, for the chairman of the Sub-committee on Appropriations in charge of the bill to offer an amendment in the nature of a substitute for the language on page 47, lines 3 to 12, inclusive, notwithstanding the provisions of clause 2, Rule XXI, or clause 7 of Rule XVI.

[1] First session Seventieth Congress, Record, p. 110.

Chapter CCXII.[1]

PRIVATE AND DISTRICT OF COLUMBIA BUSINESS.

846. On Saturday of each week it is in order to move to resolve into the Committee of the Whole House to consider business on the Private Calendar.

Bills on the Private Calendar for three days are called in their order and considered unless objection is entered or reserved.

If objection is entered or reserved 10 minutes debate is allowed and unless three Members then object the bill is considered under the 5-minute rule.

If three Members object the bill is entered on the deferred list from which bills have first call in their order for consideration under the 5-minute rule on the last Saturday of each month.

Bills reported back adversely by the committee when called up from the deferred list are automatically recommitted and may not be again reported during the same Congress.

Present form and history of section 6 of Rule XXIV.

Section 6 of Rule XXIV provides:

On Saturday of each week, after the disposal of such business on the Speaker's table as requires reference only, it shall be in order to move that the House resolve itself into the Committee of the Whole House to consider business on the Private Calendar. In the Committee of the Whole House the Chairman shall direct the Clerk to call the bills in numerical order that have been upon the Private Calendar for three legislative days. When the Clerk shall have read the bill the same shall be considered unless objection or reservation of objection is made to immediate consideration. Should objection or reservation of objection be made there shall be 10 minutes' general debate to be divided, 5 minutes controlled by the Member offering the objection or reservation and 5 minutes controlled by the chairman of the committee reporting the bill, or, in his absence, by any Member supporting the bill. If, after such debate, three objections are not forthcoming, the bill shall be considered under the 5-minute rule: *Provided, however,* That the total debate under the 5-minute rule shall not exceed 20 minutes. After the debate hereinbefore referred

[1] Supplementary to Chapter LXXXIX.

to, or when the bill is first called, if objection is made by three Members to the consideration of the bill, then the same shall be passed over and carried to a list designated as "deferred." It shall be in order for the bills on the "deferred list" to have the first call in their numerical order when the Private Calendar is called on the last Saturday of each month. At this time the bills on the "deferred list" shall be considered under the general rules of the Committee of the Whole House with 10 minutes' general debate to be divided equally, with 5 minutes controlled by the chairman of the committee reporting the bill or other Member supporting the bill and 5 minutes controlled by any Member objecting or opposing the bill. After the debate the bill shall be read for amendment under the 5-minute rule: *Provided, however,* That the total debate under the 5-minute rule shall not exceed 20 minutes. If, however, after such consideration the Committee of the Whole House acts on the bill adversely, it shall be laid aside until the committee arises, whereupon it shall be reported back to the House with the adverse recommendation. Any bill under this rule reported back to the House with an adverse recommendation shall automatically be recommitted to the committee reporting it, and said bill shall not again be reported during the same Congress.

On March 8, 1900,[1] the old rule providing for evening sessions on Fridays for the consideration of pension bills and bills removing political disabilities and charges of desertion, was superseded by a special order assigning the second and fourth Fridays of each month for the consideration of this business.

On March 14,[2] the former rule setting apart Fridays for the consideration of private business was also displaced by a special order assigning the consideration of bills reported from the Committee on Claims and the Committee on War Claims to the remaining Fridays of the month.

These special orders were retained without alteration by each succeeding Congress until the Sixty-second Congress,[3] when both rules, long obsolete, were discontinued and the two special orders were embodied in a rule providing for consideration of the Private Calendar on Fridays, alternating between pension bills on the second and fourth Fridays and claims on the remaining Fridays of the month. However, with rare exceptions, the provision was not invoked during entire sessions, the Private Calendar being considered once or twice each session under special orders, and on April 23, 1932,[4] the rule was revised and adopted in its present form. The rule as revised is subject to some of the objections urged against its predecessor and it is still necessary to resort to special orders to clear congested calendars.[5]

847. The rule providing for consideration of the Private Calendar on Saturdays divides the time for debate between the Member objecting and the chairman of the committee reporting the bill and neither may yield time to another.

At the conclusion of the debate on a bill called up from the Private Calendar, a motion is in order to lay it aside with favorable or adverse recommendation.

The proceedings observed on the first consideration of the Private Calendar under the new rule.

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[1] First session Fifty-sixth Congress, Journal, p. 329.

[2] Journal, p. 351.

[3] First session Sixty-second Congress, Record, pp. 18, 80.

[4] Third session, Seventy-first Congress, Record, p. 3723.

[5] Second session, Seventy-second Congress, Record, pp. 2705, 3218, 3633, 3733, 4278, 4846, 5397; H. Res. 374.

On May 20, 1932,[1] on motion of Mr. William B. Bankhead, of Alabama, the House resolved itself into the Committee of the Whole House for the consideration of bills on the Private Calendar, and the Chairman [2] announced:

The House is in Committee of the Whole House for the consideration of bills on the Private Calendar under clause 6 of Rule XXIV of the House.

The Clerk will call the first bill on the Private Calendar.

The first bill having been called, Mr. William H. Stafford, of Wisconsin, under reservation of the right to object to consideration, reminded the Chair that this was the first bill to be taken up under the new rule providing for the consideration of bills on the Private Calendar, and asked that the rule be interpreted.

The Chairman agreed:

The rule provides an initial 10 minutes of general debate, 5 minutes controlled by the Member offering the objection or reservation and 5 minutes controlled by the chairman of the committee reporting the bill or in his absence by any Member supporting the bill. I think the word "controlled" would grant to either the Member objecting or reserving the right to object, and to the chairman of the committee or the proponents of the bill the right to control five minutes' time.

Mr. Philip D. Swing, of California, submitted a parliamentary inquiry as to whether Members so entitled to time under the rule might yield time thus allotted, and explained that the Chairman reporting a bill was frequently not familiar with all the facts relating to it and should be in a position to yield to others, and particularly to the author of the bill, if occasion required.

The Chairman dissented:

If the gentleman from California will refresh his recollection about the rule, he will find that under the rule the control of the time is specifically given to the chairman of the committee, or, in his absence, to some Member who is in favor of the bill.

The Chairman continued:

Is there any opposition to the bill? If not, the Chair will recognize the chairman of the committee to make a motion that the bill be laid aside, to be reported back to the House with a favorable recommendation.

Mr. John J. Cochran, of Missouri, proposed:

Mr. Chairman, I move that the bill be laid aside to be reported back to the House with a favorable recommendation.

The motion was agreed to.

848. A Member could not yield time allotted under the former rule providing for the consideration of the Private Calendar.—On May 20, 1932,[3] a day devoted to the consideration of bills on the Private Calendar under the rule, the Committee of the Whole House was considering the bill (H. R. 1034) for the relief of Morris Dietrich, when Mr. Jeff Busby, of Mississippi, submitted a parliamentary inquiry as to whether a Member to whom time had been allotted for debate on the pending bill under the rule might yield a portion of the time to others. Mr.

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[1] First session, Seventy-second Congress, Record, p. 10822.

[2] William B. Bankhead, of Alabama, Chairman.

[3] First session, Seventy-second Congress, Record, p. 10827.

Busby referred to the phraseology of the rule and argued that the use of the word "controlled" indicated authority to yield.

The Chairman [1] said:

The Chair is convinced that the rule itself anticipated that the gentleman being recognized should control the time, five minutes, if he desired, and that he should not parcel it out by one minute or two minutes or one-half minute.

849. The objection by three Members when a bill was first called on Private Calendar Saturday precluded debate thereon and the bill was referred to the deferred list forthwith.—On May 20, 1932,[2] during a call of the Private Calendar under the rule, the Clerk called the bill (H. R. 1034) for the relief of Morris Dietrich.

Mr. LaFayette L. Patterson, of Alabama; Mr. Thomas L. Blanton, of Texas; and Mr. William R. Eaton, of Colorado, entered immediate objections to the consideration of the bill.

The Chairman [1] announced:

Under the rule, the sponsor of the bill or the chairman of the committee has a right to explain its provisions.

Mr. Patterson, rising to a point of order, took issue with the Chairman's interpretation and submitted that under the provisions of the rule the three objections precluded debate.

The Chairman overruled the contention but later in the proceedings adverted to the question and said:

A question has been raised, and upon it the present occupant of the chair rendered an opinion which, upon reflection and reconsideration, the Chair now believes was erroneous and improper.

A question was raised whether or not a proper construction of the rule did not provide that if there were instantly three objections to the consideration of a bill that would carry it over to the "deferred list," without the privilege of occupying the 10 minutes of debate.

In the opinion of the Chair, in reflecting upon the discussions upon the adoption of the rule before the Committee on Rules, and by a very careful reading of the proviso in the rule, the Chair is clearly of the opinion that the somewhat hasty decision reached a few moments ago is in error, and the Chair is now of the opinion that if a bill is called and three members of the committee rise and object to its consideration that automatically carries it to the "deferred list."

Subsequently [3] on the same day, Mr. Burton L. French, of Idaho, raised the same question.

The Chairman reiterated:

The rule does not provide for five minutes' debate if three objections are made. It is immediately carried to the deferred list.

It reads:

After the debate hereinbefore referred to, or when the bill is first called, if objection is made by three Members to the consideration of the bill, then the same shall be passed over and carried to a list designated as "deferred."

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[1] William B. Bankhead, of Alabama, Chairman.

[2] First session, Seventy-second Congress, Record, p.10826.

[3] Record, p. 10827.

850. A bill indirectly conferring a pensionable status is in order on a day set apart under the rule for the consideration of private pension bills.

On Friday, February 25, 1910,[1] (a day set apart under the rules, for the consideration of private pension bills,) in the consideration of pension bills on the Private Calendar, the bill H. R. 17838, for the relief of George W. Flack, was reached

Mr. James R. Mann, of Illinois, raised the following point of order:

Mr. Speaker, I raise the point of order that this bill can not be considered to-day for the purpose of getting a ruling upon this class of bills. The rules provide:

"The second and fourth Friday in each month, after disposal of such business on the Speaker's table as requires reference only, shall be set apart for the consideration of private pension bills, bills for the removal of political disabilities, and bills to remove charges of desertion."

This bill is a bill providing that in the administration of the pension laws George W. Flack shall be deemed and taken to have been honorably discharged from the military service. Of course, it is in order to-day only on one of two grounds—either that this bill removes the charge of desertion, or it is a bill granting a pension.

The Committee on Military Affairs, I notice, has adopted this form of bill in preference to the form of bill that used generally to be used directly removing the charge of desertion.

Personally, I think the present form is much superior to the old form. Of course, if this bill is in order to-day it would not be in order on the day that claims or war claims are in order. If it is not in order to-day it would be in order on those days. I raise the question solely for the purpose of having a ruling, in order that the House and Clerk may know what day these bills shall be considered. Plainly, they are in order on one of the Fridays.

The Speaker[2] held:

The Chair is inclined to hold that this bill and amendment would substantially be entitled to consideration to-day as a pension bill. It provides—

"That in the administration of the pension laws and the laws governing the Soldiers' Home for Disabled Volunteer Soldiers, or any branch thereof, George W. Flack, now a resident of Pennsylvania, shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private of Company I, Fifth Regiment U. S. Veteran Volunteer Infantry, on the 16th day of June, 1866: *Provided,* That no pension shall accrue prior to the passage of this act."

Now, that does not change the record. The greater includes the less, and the effect, in the opinion of the Chair, of this bill, if enacted into law, would be to give the soldier a pensionable status under the general law. The Chair, therefore, overrules the point of order.

851. After the disposition of all bills belonging to the class of business in order under the former rule on a particular Friday, it was held to be in order to take up in regular order any business on the Private Calendar.

On December 17, 1908,[3] a day devoted to the consideration of private pension bills, bills for the removal of political disabilities, and bills removing charges of desertion, the business in order under this provision of the rules having been concluded, Mr. James R. Mann, of Illinois, as a parliamentary inquiry, asked if it were in order to resolve into the Committee of the Whole House for the consideration of bills on the Private Calendar.

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[1] Second session Sixty-first Congress, Record, p. 2414.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Second session Sixtieth Congress, Record, p. 383.

The Speaker [1] said:

The gentleman will recollect that the rule has been, and as the Chair recollects the practice of the House has been, that after all pension bills on the Private Calendar to-day are disposed of the House can go ahead in the Committee of the Whole House to consider other bills, it being still Friday. The Chair's recollection of the rule is that, this being pension day, and the business of pensions having been concluded by the House, it would first be in order on to-day to take up desertion cases which are passed with pension bills, and then it would be in order, if they should be finished, to consider the Private Calendar generally. This is pension day. Now, that business having been concluded, it would be in order, as the Chair understands, for the House to go into Committee of the Whole for the consideration of bills upon the Private Calendar; and under the rules of the House, this being pension day, the desertion bills would have first right of way, pension bills having been concluded; and if that right of way is not claimed, or if that order of business should be finished, then any other bills on the Private Calendar would be in order, as the Chair understands. Under the rule pension bills formerly took up all day. Latterly they have not taken up all day, and the House has not seen proper to go into the committee to consider other bills in order; but under the rule it is quite within the power of the House, in the opinion of the Chair, to go now into the Committee of the Whole House for private business, or to do anything else that it desires to do.

852. On Friday, March 25, 1910,[2] on which the consideration of private pension bills was in order under the rule, after all pension bills on the calendar had been disposed of, Mr. William Sulzer, of New York, moved that the House resolve into the Committee of the Whole House for the consideration of bills on the Private Calendar.

Mr. James R. Mann, of Illinois, made the point of order that the motion could not be entertained.

The Speaker [1] said:

The gentleman will recollect that two years ago, during the last Congress, the gentleman raised the question which the gentleman now raises, and after consideration a ruling was made, a copy of which ruling the Chair has in his hand, holding that the motion was in order after pension bills had been disposed of. The Chair overrules the point of order. The gentleman from New York moves that the House resolve itself into the Committee of the Whole House for the consideration of bills on the Private Calendar.

853. Under the former rule, the House could dispense with business in order under the rule by voting affirmatively on a privileged motion to resolve into Committee of the Whole to consider general appropriation or revenue bills.

On Saturday, February 18, 1911 [3] (legislative day of Friday, February 17), Mr. George E. Foss, of Illinois, moved that the House resolve itself into the Committee of the Whole House on the state of the Union to consider the naval appropriation bill.

Mr. Swagar Sherley, of Kentucky, made the point of order that the day was set apart by the rules for the consideration of private business, and the motion was therefore not in order.

The Speaker [1] said:

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] Second session Sixty-first Congress, Record, p. 3771.

[3] Third session Sixty-first Congress, Record, p. 2849.

If the gentleman will examine the uniform practice of the House and the precedents he will find that on Friday, private-bill day, as well as on District day on Monday, a motion to go into Committee of the Whole House on the state of the Union to consider a general appropriation bill or a revenue bill takes precedence of a motion to go into Committee of the Whole House.

854. In the absence of an order for the previous question, business undisposed of at adjournment comes up as unfinished business only on the next day when that class of business is again in order and not on the next legislative day.

On Friday, September 5, 1919,[1] the Committee of the Whole House rose and the Chairman reported certain bills without amendments and with the recommendation that they pass.

No demand being made for the previous question, Mr. John N. Garner, of Texas, as a parliamentary inquiry, asked whether the bills so reported, if undisposed of, would come up on the following day as unfinished business.

The Speaker[2] held that they would go over as unfinished business to the next day on which that class of business was again in order.

855. Under the former rule, when the House resolved into the Committee of the Whole House for the consideration of bills on the Private Calendar, a bill unfinished at adjournment on a previous day took precedence of other bills on the Private Calendar.

On May 13, 1910,[3] the House resolved into the Committee of the Whole House for the consideration of bills on the Private Calendar, and the Chairman[4] directed the Clerk to call the first bill.

The Clerk called the bill (H. R. 13517) authorizing a credit in certain accounts of the Treasurer of the United States, when Mr. Courtney W. Hamlin, of Missouri, submitted that the bill (H. R. 15103) to reimburse an Indian agent for money advanced, and remaining undisposed of at adjournment of the previous Friday, was the unfinished business.

The Chairman sustained the point of order and directed the Clerk to call the unfinished business.

856. A bill dealing with classes is a public bill as distinguished from a private bill for the benefit of individuals.

After consideration has begun, it is too late to raise the point of order that a bill is on the wrong calendar.

On January 21, 1910,[5] the House was considering, in the Committee of the Whole House the bill (H. R. 6043) for the relief of registers of the United States land offices, reading as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to refund, out of any money in the Treasury not otherwise appropriated, to registers and

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[1] First session Sixty-sixth Congress, Record, p. 4951.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-first Congress, Record, p. 6233.

[4] David J. Foster, of Vermont, Chairman.

[5] Second session Sixty-first Congress, Record, p. 873.

former registers of United States land offices money earned by them for issuing notices of the cancellation of entries subsequent to July 26, 1892, which money, under the instructions of the Secretary of the Interior, they were erroneously required to deposit in the United States Treasury, contrary to the provisions of the act approved July 26, 1892: *Provided,* That such refund shall be made only of money deposited subsequent to the approval of the act of July 26, 1892, and shall be made upon accounts stated and certified by the Secretary of the Interior: *And provided further,* That said refund shall be made of only such fees which have not entered into the compensation paid to such registers out of the appropriation for salaries and commissions of registers and receivers for any fiscal year.

Mr. James R. Mann, of Illinois, offered the following amendment:

Add a new section, to read as follows:

"SEC. 2. Hereafter all money or fees received or collected by registers of the United States land offices for issuing notices of cancellation of entries shall be reported and accounted for by such registers in the same manner as other funds or moneys received or collected."

Mr. Edgar D. Crumpacker, of Indiana, raised the point of order that the amendment was of a public nature and not germane to a private bill.

The Chairman [1] ruled:

The reading of this bill showed to the satisfaction of the Chair that it is a public bill. It deals with people in a general class, and is general in its terms. It is not for the relief of any particular individual and must therefore be considered a public bill. It is on the Private Calendar, but has been under consideration and has been considered for two hours, and it is too late to make the point of order against it as a public bill on the Private Calendar. The Chair therefore holds that it is a public bill and that the amendment offered is germane to it.

857. A bill, the beneficiaries of which, though readily ascertainable, were designated as a class, was classed as a private bill.

On April 15, 1910,[2] the House was considering, in the Committee of the Whole House, bills on the Private Calendar, when the following bill (H. R. 21225) for the relief of persons supplying labor and material for the construction of the Bellefourche irrigation project was reached:

Be it enacted, etc., That all persons having supplied labor and materials for the prosecution of the work of making the main canal of the Bellefourche irrigation project under the contract for the construction thereof, entered into by Widell-Finley Company, under date of April 26, 1905, pursuant to advertisement for said contract, dated February 10, 1905, and their assigns and legal representatives, are hereby given the full rights and remedies afforded to persons supplying labor and materials in the prosecution of public works, as set forth in the act of August 13, 1894, entitled "An act for the protection of persons furnishing materials and labor for the construction of public works," to the same force, extent, and effect as if the act had not been amended, modified, or repealed, with full right of action in the name of the United States for his or their use and benefit against said contractors and sureties upon the bond furnished to the United States under the said contract: *Provided,* That such action and its prosecution shall involve the United States in no expense.

Mr. James R. Mann, of Illinois, made the point of order that this bill was either improperly on the Private Calendar or was improperly reported by the Committee on Irrigation of Arid Lands.

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[1] Philip P. Campbell, of Kansas, Chairman.

[2] Second session Sixty-first Congress, Record, p. 4758.

The Chairman [1] ruled:

While this bill does not name specific beneficiaries, or the parties who can have their claims adjusted under it, yet they are designated as a collection of people who can readily be ascertained. They are not named as a general class. It has been held that a battalion of soldiers was to be considered as the beneficiaries under a private bill. The Chair therefore overrules the point of order as to that. As to the second point of order, raised by the gentleman from Illinois, that the Committee on Irrigation of Arid Lands has no jurisdiction, the Chair calls the attention of the gentleman from Illinois to the last clause in the bill, which specifically provides that such action and its provisions shall involve the United States in no expense.

The Chair overrules the point of order made on the second proposition.

858. A bill for the relief of a tribe of Indians was classed as a private bill.

On May 4, 1910,[2] during a call of the committees, Mr. Charles H. Burke, of South Dakota, from the Committee on Indian Affairs, called up the bill (H. R. 16032) for the relief of the Saginaw, Swan Creek, and Black River Bands of Chippewa Indians in the State of Michigan.

Mr. Sereno E. Payne, of New York, made the point of order that the bill was a private bill and improperly on the House Calendar.

The Speaker [3] sustained the point of order and directed that the bill be placed on the Private Calendar.

859. A bill for the benefit of an individual, though dealing with Government property, is classed as a private bill.

Bills erroneously referred to calendars are transferred to the proper calendar by direction of the Speaker.

On June 20, 1921,[4] during the call of the Calendar for Unanimous Consent, the bill (H. R. 2861) authorizing the Secretary of War to grant rights to overflow land on a military reservation, was called.

Mr. William H. Stafford, of Wisconsin, raised the question of order that the bill was a private bill and improperly on the Union Calendar.

The Speaker pro tempore [5] decided:

The gentleman from Wisconsin makes the point of order that the bill H. R. 2861, which has been reported by title, which authorizes the Secretary of War to grant to Lloyd E. Gandy, of Spokane, Wash., his heirs and assigns, the right to overflow certain lands on the Fort George Wright Military Reservation, at Spokane, Wash., on such terms as may be prescribed by the Secretary of War, and for other purposes, is improperly upon the Union Calendar, because it is a private bill.

It is at times difficult to draw the line between bills of this character under the rules and to determine whether or not they belong upon one calendar or another. The Chair has examined the provisions of this bill, and in the view of the Chair the legislation proposed is such as to grant certain rights and privileges to an individual, and as an incident to that grant or benefit which is to be conferred certain powers are given to the Secretary of War, authorizing him to require the fulfillment of certain conditions and to require the beneficiaries to fill in some land or to erect certain structures made necessary by the grant of the particular privilege or benefit to the individual named in the bill. The Chair finds on examining the precedents that in the Fifty-ninth

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[1] Philip P. Campbell, of Kansas, Chairman.

[2] Second session Sixty-first Congress, Record, p. 5791.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] First session Sixty-seventh Congress, Record, p. 2764.

[5] Joseph Walsh, of Massachusetts, Speaker pro tempore.

Congress, the Speaker ruled upon the question as to what calendar certain bill similar in import to this belonged.[1]

Mr. Speaker Cannon at that time stated that it had been the practice in Parliament and also in Congress to consider as private bills such as are for the interest of individuals, public companies or corporations, a parish, city, or county, or other locality.

To be a private bill, it must not be a general in its enactments, but for the particular interest or benefit or a person or persons. A pension bill for the relief of a soldier's widow is a private bill, but a bill granting pensions to such persons as a class instead of as individuals is a public bill.

The Chair has examined the citation to which the gentleman has referred, and feels that while this bill contains general provisions, the reason the general provisions are contained in the bill is because legislation is proposed granting a certain thing or benefit to an individual, and not to any particular class or any particular community. The right granted is for the benefit of Mr. Lloyd Gandy, of Spokane, Wash., or his heirs or assigns. While it is true it affects the military reservation or other Government property, the Chair feels that the bill clearly comes within the rule requiring that bills for the benefit or rights of certain individuals should be treated as private in their character.

The Chair sustains the point of order, and the bill is automatically transferred to the Private Calendar.

860. A private bill for the benefit of a collection of individuals, ascertainable by name, may not be amended so as to extend its provisions to a class of individuals not definitely ascertainable.

An amendment, which adopted would constitute a public bill, is not germane to a private bill.

On April 23, 1910,[2] the House was considering bills on the Private Calendar in the Committee of the Whole House.

During the consideration of the bill (S. 3638) for the payment of overtime claims of certain letter carriers, Mr. D. R. Anthony, jr., of Kansas, offered the following amendment:

And that all similar claims of government employees for overtime under the eight-hour law, and which are now barred by the statute of limitations, are hereby referred to the Court of Claims for adjudication.

Mr. James R. Mann, of Illinois, raised a point of order against the amendment.

The Chairman[3] ruled:

The bill under consideration is a private bill that provides relief to certain designated persons. The amendment offered by the gentleman from Kansas seeks to attach to the bill under consideration a general provision of law extending rights to a general class for similar character of relief.

The precedents are uniform that you can not insert a general provision of law as an amendment to a bill providing for the relief of a single individual.

The Chair directs attention to the fifth volume of Hinds' Precedents, paragraph 5843, in which is found the following language:

"To a bill for the benefit of a single individual or corporation an amendment embodying general provisions applicable to the class represented by the individual is not germane."

Also to paragraph 5845:

"On April 12, 1850, the bill from the Senate (No. 128) for the relief of Margaret L. Worth, widow of the late General Worth, of the Army of the United States, having been read a first and

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[1] Hinds' Precedents, volume III, section 2614.

[2] Second session Sixty-first Congress, Record, p. 5288.

[3] William H. Stafford, of Wisconsin, Chairman.

second time, Mr. George W. Jones, of Tennessee, moved to amend the same by adding thereto a general provision of law of similar import."

The Speaker decided that that amendment was out of order on the ground that the bill provided for the relief of a single individual and the amendment sought to attach a general provision of law. The fact that the pending bill provides relief for a large number of persons named therein does not change its character as a private bill, and is in the same class as though it provided relief for a single person. The pending bill provides for a collection of individuals, definitely ascertainable by name, and to it may not be added by way of amendment a general provision for a class of persons not definitely ascertainable by name.

Under these precedents there is no question but what the amendment is out of order, and the Chair so rules. The point of order is sustained.

861. A bill transferring title of public lands to a private corporation was classed as a private bill.

On February 24, 1908,[1] by direction of the Speaker,[2] reference of the bill (H. R. 15725) to relinquish, release, and confirm the title of certain lands in California to the Western Power Co., was changed from the Union Calendar to the Private Calendar.

862. A bill authorizing an exchange of Government-owned land was held to be a public bill.

On February 7, 1910,[3] by direction of the Speaker,[2] the reference of the bill (H. R. 19558) to authorize the Secretary of War to effect an exchange of a certain parcel of land owned by the United States for another parcel owned by the Cave Hill Cemetery Co., of Louisville, Ky., was transferred from the Private Calendar to the Union Calendar.

863. The reference of a bill, or a change in the reference of a bill, by the Speaker does not preclude the point of order, when called up for consideration, that it has been improperly referred.

The point of order that a bill is on the wrong calendar may be raised at any time before consideration begins.

A bill authorizing a credit in the accounts of a Federal official was classed as a private bill.

On March 2, 1910,[4] the bill (H. R. 13517) authorizing a credit in certain accounts of the Treasurer of the United States, was held to be a private bill, and by direction of the Speaker was transferred from the Union Calendar to the Private Calendar.

However, on May 13,[5] when the bill was called up during consideration of bills on the Private Calendar in the Committee of the Whole House, Mr. Courtney W. Hamlin, of Missouri, made the point of order that it was improperly on the Private Calendar and was not entitled to consideration as a private bill.

Mr. John J. Fitzgerald, of New York, having raised a question as to whether the point of order could be entertained, the Chairman[6] held that the question of

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[1] First session Sixtieth Congress, Record, p. 2416.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Second session Sixty-first Congress, Record, p. 1560.

[4] Second session Sixty-first Congress, Record, p. 2648.

[5] Record, p. 6234.

[6] David J. Foster, of Vermont, Chairman.

reference to the proper calendar was in order when the bill was called up for consideration.

After further debate the Chairman said:

The Chair must judge of the purpose of the bill upon the facts that appear on the face of the bill, and as the Chair indicated at the start, the fact that this bill was transferred from the Union Calendar to the Private Calendar in the manner in which it was transferred, on the 2d day of March last, raises a strong presumption that the question raised now by the gentleman from Missouri was determined. But, aside from that, the Chair is firmly of the opinion from a reading of the bill that this is a private bill, being for the benefit of an individual. Whether the benefit intended is adequate is a question not for the Chair.

The Chair, therefore, overrules the point of order.

864. A bill granting an easement over public lands was held to be a public bill.

Discussion and distinction between public and private bills and method of introduction and reference.

On January 5, 1912,[1] when the Committee on the Public Lands was reached in a call of the committees, by direction of that committee it was proposed to call up the bill (J. R. 12572) for the relief of the Hydro-Electric Co., of California, granting that company right of way for a pipe line across certain Government lands.

Mr. James R. Mann, of Illinois, submitted a point of order, as follows:

I desire to make the point of order that the bill is incorrectly on the Private Calendar. Secondly, that the bill has never been properly introduced; that the Committee on the Public Lands that reported the bill never had jurisdiction of the bill and had no authority to report it.

Mr. Speaker, under the points of order which I have made the first question is whether this is a public bill or a private bill. The rules provide, in reference to public bills and private bills, that bills of a private nature shall be referred, when dropped in the basket, by the Member introducing them. Bills of a public nature shall be handed to the Speaker and by him referred. As a matter of fact the bills are dropped in the basket with a note upon the bill made by the introducer indicating what committee it shall be referred to. Public bills are dropped in the basket the same way but the Speaker refers them, usually through the parliamentary clerk.

This bill was introduced by the gentleman from California, Mr. Raker, as a private bill, and was referred by the gentleman from California to the Committee on the Public Lands. If it is a private bill, then it was properly before the Committee on the Public Lands, and that committee had a right to make a report, and the bill is properly upon the Private Calendar.

But if it is a public bill it was not introduced under the rules of the House, because it was not put where the Speaker had the reference of it. The committee acquired no jurisdiction over the bill; therefore it had no authority to report the bill. Even if it had authority to report the bill, it is not properly upon the Private Calendar.

It is perfectly patent that if this is a private bill and was erroneously referred by the gentleman who introduced it, the committee could have no jurisdiction; but if it is a public bill, and was erroneously referred by the gentleman who introduced it, and the Journal shows in this case it was referred by the gentleman who introduced it, does that confer jurisdiction upon the committee?

Now, in my judgment, this is a public bill, a bill of a public character. As we all know, the laws that we pass are printed as public and private laws. They are so published now in separate volumes of the statutes. As they are passed and issued they are marked "Public" and "Private." All laws of this character for years have been marked "Public laws" and "Private laws." At the last Congress an act was passed granting to the Hot Springs Street Railway Co., its successors and assigns, the right to maintain and operate its electric railway along the southern border of the Hot Springs Reservation, and so forth; a bill very similar to this bill, granting a right of way.

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[1] Second session Sixty-second Congress, Record, p. 685.

Various other bills granting rights of way were passed in the same Congress, all public laws. We pass innumerable bridge bills. They are all public bills and become public laws. We also pass great numbers of bills for the construction of dams. They run to individuals or to corporations, but they are all public bills, and if passed they all become public laws, because they are of a public character. This bill proposes to grant a right of way over the national domain to a company exactly of the same character as the bills which always have been held to be public bills and which, when passed, have been printed as public laws.

The Speaker [1] sustained the point of order, holding that the bill should be classed as a public bill, and referred it to the Union Calendar.

865. A bill to indemnify a foreign government for injury to its nationals was held to be a public bill.

On September 3, 1913,[2] Mr. Henry D. Flood, of Virginia, from the Committee on Foreign Affairs, asked unanimous consent for the consideration of the bill (H. R. 7384) to authorize the payment of an indemnity to the Italian Government for the killing of an Italian subject.

Mr. James R. Mann, of Illinois, reserved the right to object and made the point of order that the bill was a private bill and therefore was improperly on the Union Calendar.

The Speaker [1] said:

The bill which the gentleman from Virginia is endeavoring to bring before the House looks on its face very much like a private bill, but in another sense it is a matter of international comity, and the Italian Government has thought it of enough importance to make it a question with our Government. Therefore, the Chair overrules the point of order raised by the gentleman from Illinois.

866. On June 25, 1930,[3] during a call of the Consent Calendar, the bill (H. R. 9702) authorizing the payment of an indemnity to the British Government on account of losses sustained by H. W. Bennett, a British subject, in connection with the rescue of survivors of the U. S. S. *Cherokee,* was reached.

Mr. Fiorello H. LaGuardia, of New York, made a point of order that the bill was a private bill and therefore ineligible to consideration on the Consent Calendar.

The Speaker pro tempore [4] overruled the point of order and said:

The gentleman from New York makes the point of order that this bill is not in order on the Consent Calendar. This bill authorizes the payment of an indemnity to the British Government.

The Chair will call the attention of the gentleman from New York to the fact that the title of the bill is "A bill for the payment of an indemnity to the British Government." The Chair overrules the point of order. Is there objection to the present consideration of the bill?

867. A bill to refund money to a municipality was classed as a private bill.

On May 6, 1914,[5] the Speaker [1] announced that the bill (H. R. 9628) to refund to the corporate authorities of Frederick, MD., the sum of $200,000 exacted of them

[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixty-third Congress, Record, p. 4155.

[3] Second session Seventy-first Congress, Journal, p. 16; Record, p. 11728.

[4] Robert Luce, of Massachusetts, Speaker pro tempore.

[5] Second session Sixty-third Congress, Record, p. 8178.

by the Confederate Army under Gen. Jubal Early, July 9, 1864, under penalty of burning said city, had by mistake been referred to the Union Calendar; that it was a private bill and should be referred to the Private Calendar.

868. A bill legalizing conveyance of real estate previously made was held to be a public bill.

On March 2, 1915,[1] by direction of the Speaker,[2] the bill (S. 5042) legalizing certain conveyances previously made by the Central Pacific Railroad Co. and others in the State of Nevada was transferred from the Private Calendar to the Union Calendar.

869. A bill authorizing payment for services rendered a Government bureau by a private agency was held to be a private bill.

A bill providing for individuals, corporations, or private institutions is classed as a private bill.

A general bill affecting classes as distinguished from individuals is a public bill.

Bills on the wrong calendar may be transferred to the proper calendar as of date of original reference by direction of the Speaker.

A point of order against the reference of bills to the calendars may be made at any time before consideration begins.

On March 17, 1930,[3] the bill (H. R. 5917) for the relief of certain newspapers for advertising services rendered the Public Health Service of the Treasury Department was reached during the call of the Consent Calendar.

Mr. William H. Stafford, of Wisconsin, made the point of order that the bill was a private bill and for that reason was improperly on the Consent Calendar.

After debate the Speaker pro tempore[4] sustained the point of order and said:

As the Chair understands the situation, this bill as originally drafted in slightly different form was on the Private Calendar. It was redrafted and then found its way to the Consent Calendar. Where a bill affects an individual, individuals, corporations, institutions, and so forth, it should and does go to the Private Calendar. Where it applies to a class and not to individuals as such, it then becomes a general bill and would be entitled to a place on the Consent Calendar. In the judgment of the Chair this bill, while affecting a class of concerns, specifies individuals, and for the purpose of the rule the Chair holds that the bill is improperly on this Calendar and transfers it as of the date of the original reference to the Private Calendar.

870. A bill conferring jurisdiction on the Court of Claims to hear and report on claims of Indian tribes against the United States was classed as a public bill.

A bill relating to a nation of Indians and not to Indians as individuals was held to be a public bill.

A bill authorizing payment of money held in the Treasury in trust for Indians is not such a charge against the Treasury as to require consideration in Committee of the Whole.

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[1] Third session Sixty-third Congress, Record, p. 5186.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Seventy-first Congress, Journal. p. 10; Record. p. 5454.

[4] Earl C. Michener, of Michigan, Speaker pro tempore.

A bill providing for inquiry by the Court of Claims without conferring authority to render final judgment does not require consideration in the Committee of the Whole.

On February 4, 1931,[1] it being Calendar Wednesday, and the Committee on Indian Affairs being called, Mr. Scott Leavitt, of Montana, by direction of that committee, called up the bill (S. 3165) conferring jurisdiction on the Court of Claims to hear, consider, and report upon a claim for the Choctaw and Chickasaw Indian Nations or Tribes for fair and just compensation for the remainder of the leased district lands.

Mr. William H. Stafford, of Wisconsin, made the point of order that the bill was not eligible to consideration on Calendar Wednesday, first, because it was a private bill, and, second, because it was not properly on the House Calendar in that it provided a charge against the Treasury. In support of his contention, Mr. Stafford called attention to the section of the bill reading as follows:

SEC. 3. There is hereby authorized to be expended, out of any money or moneys now standing to the credit of the Choctaw and Chickasaw Indian Nations or Tribes in the Treasury of the United States, the sum of not to exceed $5,000, to be paid, in the discretion of the Secretary of the Interior for the reimbursement of said attorneys.

After debate the Speaker pro tempore[2] overruled the point of order and said:

The gentleman from Wisconsin makes two points of order: First, that this is a private bill and is, therefore, on an improper calendar; that it should be on the Private Calendar. As the Chair recollects the law, the United States deals with the Choctaw and Chickasaw Tribes as nations and through treaties. Therefore this bill deals with the Indians as a nation and not with Indians as individuals. The Chair believes that this is a public bill and is properly on the Public Calendar, and overrules that point of order.

So far as the second point of order is concerned, the gentleman from Wisconsin contends that this bill authorizes an appropriation of money out of the Federal Treasury, and, therefore, is improperly on the House Calendar. It seems to the Chair that section 3 makes it clear that—

"There is hereby authorized to be expended, out of any money or moneys now standing to the credit of the Choctaw and Chickasaw Indian Nations or Tribes in the Treasury of the United States"—

And so forth. There must have been previous legislation in reference to this matter in order to place this money in the Treasury of the United States in trust for the Indians. That act has already taken place, and this money stands to-day in the Treasury of the United States subject to the legal demand of these tribes. This bill simply provides a way whereby this money-set aside in the Treasury of the United States for these particular tribes—may be expended.

Mr. Stafford then submitted the further point of order that the bill by conferring authority on the court to adjudicate claims against the Government thereby provided for a charge against the Treasury, if in the adjudication of such claims a judgment should be handed down against the United States.

The Speaker pro tempore said:

The gentleman from Wisconsin has made an additional point of order, the Chair having already overruled two points of order. In ruling on the third point of order the Chair would refer to Rule XXIII, clause 3, which reads as follows:

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[1] Third session Seventy-first Congress, Journal, p. 515; Record, p. 3969.

[2] Earl C. Michener, of MicbLigan, Speaker pro tempore.

"All motions or propositions involving a tax or charge upon the people; all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriations to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, or referring any claim to the Court of Claims, shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of a bill has commenced."

The Chair therefore thinks that unless some further facts are developed the Chair should sustain the point of order.

Mr. William W. Hastings, of Oklahoma, submitted:

There is no provision in the bill where any judgment is authorized, and the Chair will find that where any claim is pending before either House, other than a pension claim, under this section [1] of the Judicial Code it may be referred upon a resolution of either the Senate or House in which the claim is pending, to the Court of Claims for findings of fact and conclusions of law, and a report made to the Congress. This bill does not authorize a judgment, it does not contemplate a judgment, it does not ask a judgment; but simply refers the claim to the Court of Claims for a report back of findings for the guidance of the committees of Congress, and no judgment is authorized under this bill.

The Speaker pro tempore differentiated:

There is a distinction between referring a claim with authority to render final judgment and referring a claim for the purpose of ascertaining the facts, the matter later to be passed upon by the Congress. The Chair, in ruling a few moments ago, had in mind clause 3 of Rule XXIII, standing alone. The gentleman from Oklahoma has called the Chair's attention to the first provision of the bill, which reads:

"That the Court of Claims is hereby authorized and directed to hear and inquire into the claims of the Choctaw and Chickasaw Indian Nations."

And to report back. Therefore the Chair feels that this bill does not come within the provisions of clause 3 of Rule XXIII, and overrules the point of order.

871. A bill transferring to a water users' association the operation and maintenance of an irrigation project financed by the Government, without relinquishing the lien of the Government for funds expended, was held to be a private bill.

On January 19, 1931,[2] Mr. Edward T. Taylor, of Colorado, moved to suspend the rules and pass the bill (H. R. 14916) for the relief of the Uncompahgre reclamation project.

The bill authorized the transfer of the care, construction, operation, and maintenance of an irrigation reclamation project, on which the Government had expended approximately $7,000,000, to an association organized by the water users on the project without compromising the right of the Government to reimbursement for its expenditures.

The question as to the reference of the bill to the proper calendar having been raised, the Speaker [3] said:

This bill is on the Private Calendar. It is not the custom of the Chair as a rule to recognize a Member to move to suspend the rules and pass bills on the Private Calendar. However, this

[1] Section 151, vol. 44, pt. 1, p. 898.[2]

[2] Third session Seventy-first Congress, Record, p. 2609.

[3] Nicholas Longworth, of Ohio, Speaker.

differs very substantially from most such bills. As the Chair understands it, it deals with a very large project, and a very large number of people are interested in it. The Government itself is interested in it according to the information the Chair received from the Secretary.

The Chair thinks it is properly on the Private Calendar. It deals with only one project, but it is a large one, and there is great interest both on the part of the Government and a large number of people. The Clerk will report the bill.

872. The second and fourth Mondays of each month are set apart for business presented by the Committee on the District of Columbia.

Form and history of section 8 of Rule XXIV.

Section 8 of Rule XXIV provides—

The second and fourth Mondays in each month, after the disposition of motions to discharge committees and after the disposal of such business on the Speaker's table as requires reference only, shall, when claimed by the Committee on the District of Columbia, be set apart for the consideration of such business as may be presented by said committee.

This rule was formerly section 3 of Rule XXVI. In the revision of 1911 [1] provisions designating certain days of the week for the consideration of classes of business were grouped in one rule relating to the order of business, and this section was transferred without amendment from Rule XXVI to Rule XXIV, where it has been retained unchanged with the exception of the limitation imposed in 1932 [2] giving precedence to motions to discharge committees.

873. On a District of Columbia day it is in order to call up for consideration a private bill reported by the Committee on the District of Columbia.

On May 26,1930,[3] a District of Columbia day, Mr. Clarence J. McLeod, of Michigan, proposed to call up the bill (H. R. 3048) to exempt from taxation certain property of the National Society of Sons of the American Revolution, in the District, of Columbia.

Mr. William H. Stafford, of Wisconsin, objected that it was not in order to call up a bill on the Private Calendar on a District of Columbia day.

The Speaker pro tempore [4] cited section 3310 of Hinds' Precedents and said:

The Chair will state that while the gentleman from Michigan asked unanimous consent to take up the bill, the Chair did not put the request in that manner. The gentleman is privileged on District day to call up a bill on the Private Calendar.

874. On District of Columbia days debate in the Committee of the Whole is not limited and, unless otherwise provided by the House or the Committee, a Member securing the floor is recognized for one hour.

On April 9, 1928,[5] it being a District of Columbia day, the House bill (H. R. 16) to regulate osteopaths in the District of Columbia was under consideration in the Committee of the Whole House on the state of the Union. During the debate Mr. Carl E. Mapes, of Michigan, addressed the Chairman and was recognized for one hour.

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[1] First session Sixty-second Congress, Record, pp. 18, 80.

[2] First session Seventy-second Congress, Record, p. 83.

[3] Second session Seventy-first Congress, Record, p. 9607.

[4] Carl R. Chindblom, of Illinois, Speaker pro tempore.

[5] First session Seventieth Congress, Record, p. 6121.

Mr. Thomas L. Blanton, of Texas, submitted that recognition could not be given for an hour for the reason that debate on District day was limited to two hours, and more than an hour had already been consumed.

The Chairman [1] overruled the objection and said:

The Chair will state that there is no such rule. That is on Calendar Wednesday. The gentleman from Michigan is recognized.

875. Debate on District Monday is general debate and is not confined to the bill under consideration.

Members of the committee on the District of Columbia have precedence in recognition for debate on days claimed by the committee for the consideration of District business.

Debate in the Committee of the Whole on District day properly alternates between those favoring and those opposing the pending proposition and to insure alternation the chairman sometimes ascertains the attitude of Members seeking recognition.

On Monday, April 11, 1932,[2] a day claimed by the Committee on the District of Columbia for the consideration of District of Columbia business, the Committee of the Whole House on the state of the Union had under consideration a bill relating to the construction and use of certain pipe lines in the District of Columbia.

Mr. Jeff Busby, of Mississippi asked recognition in opposition to the pending bill.

The Chairman [3] inquired:

Is any member of the committee opposed to the bill?

Mr. William H. Stafford, of Wisconsin, asked as a parliamentary inquiry, if it was necessary for a Member to oppose the bill in order to secure recognition.

The Chairman replied:

From the Chair's experience, gained through having been a member of this committee for over 10 years, he will state that where a bill is called up for general debate on District day in the Committee of the Whole House on the state of the Union, and the chairman of the committee has yielded the floor, a member of the committee opposed to the bill is entitled to recognition over any other member opposed to the bill, and it was the duty of the Chair to ascertain whether there were any members of the committee opposed to the bill who would be entitled to prior recognition. The Chair having ascertained there were no members of the committee opposed to the bill, took pleasure in recognizing the gentleman from Mississippi.

Mr. Stafford further inquired if Members who were recognized for debate on days set apart under the rule for District of Columbia business, were required to confine their remarks to the pending bill.

The Chairman said:

Not on District day. The general debate on District day is the same as general debate on any supply measure.

876. The motion to go into Committee on the Whole to consider revenue and general appropriation bills is in order on Monday as on other days.

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[1] Carl R. Chindblom, of Illinois, Chairman.

[2] First session Seventy-second Congress, Record, p. 7990.

[3] Thomas L. Blanton, of Texas, Chairman.

On January 23, 1922,[1] it being the fourth Monday of the month, after the disposal of business on the Speaker's table, Mr. William R. Wood, of Indiana, from the Committee on Appropriations, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the independent offices appropriation bill.

Mr. Thomas L. Blanton, of Texas, made the point of order that the motion was not in order.

The Speaker[2] called attention to the well-established privilege of motions to go into the Committee of the Whole for the consideration of revenue and general appropriation bills, and its application on Mondays devoted to District of Columbia business, as on other days, and overruled the point of order.

877. On a District of Columbia day a motion to go into the Committee of the Whole to consider District business and a motion to go into the Committee to consider business generally privileged under a special order are of equal privilege, and recognition to move either is within the discretion of the Chair.

On May 23,1928,[3] it being the fourth Monday of the month, following the reading and approval of the Journal, Mr. Frank R. Reid, of Illinois, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 3740) for the control of floods on the Mississippi River and its tributaries, privileged under the following special order:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 3740, an act for the control of floods on the Mississippi River and its tributaries, and for other purposes. That after general debate, which shall be confined to the bill and shall continue not to exceed 12 hours, to be equally divided and controlled by those favoring and opposing the bill, 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 bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. Fiorello H. LaGuardia, of New York, as a parliamentary inquiry, submitted that under the rule the day should be devoted to business presented by the Committee on the District of Columbia.

The Speaker[4] said:

The Chair thinks not. It is merely in order to call up District business. If the chairman of the Committee on the District of Columbia should call up any bills to-day he would have exactly the same right theoretically that the gentleman from Illinois would have if he desires to call up the flood control bill. It would be in the discretion of the Chair which he would recognize.

878. On Monday, January 25, 1932,[5] Mrs. Mary T. Norton, of New Jersey from the Committee on the District of Columbia, by direction of that committee,

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[1] Second session Sixty-seventh Congress, Record, p. 1585.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Seventieth Congress, Record, p. 6999.

[4] Nicholas Longworth, of Ohio, Speaker.

[5] First session Seventy-second Congress, Record, p. 2656.

called up the bill (H. R. 5341) to provide for the incorporation of the District of Columbia Commission, George Washington Bicentennial.

After debate, Mrs. Norton moved the previous question which, on division, was refused by the House.

Thereupon, the Speaker [1] recognized Mr. James P. Buchanan, of Texas, 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 Department of Agriculture appropriation bill.

879. Business unfinished on a District of Columbia day does not come up on the next District day unless called up.

On Monday, May 22, 1922,[2] a day devoted to business reported from the Committee on the District of Columbia, Mr. Loren E. Wheeler, of Illinois, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 2919) to extend the District of Columbia rents act.

Mr. Frank C. Millspaugh, of Missouri, made the point of order that the unfinished business was the pawnbroker's bill and should first be disposed of.

The Speaker pro tempore [3] overruled the point of order.

880. On May 9, 1932,[4] the second Monday of the month, and a day subject to claim for the consideration of District of Columbia business under the rule, Mrs. Mary T. Norton, of New Jersey, chairman of the Committee on the District of Columbia, asked unanimous consent for the consideration of the concurrent resolution (S. Con. Res. 27) relating to fraternal insurance in the District of Columbia.

Mr. William H. Stafford, of Wisconsin, as a parliamentary inquiry, submitted that the unfinished business under the rule, providing for the consideration of District of Columbia business, was the joint resolution (H. J. Res. 154) providing for the merger of the street-railway systems of the District of Columbia, which was under consideration when the House adjourned on the fourth Monday preceding and was entitled to preference when that class of business was again in order.

The Speaker [1] overruled the contention and said:

> The Chair thinks not, because a motion to consider it is necessary. Whenever a motion is required, the unfinished business has no precedence over any other business.
>
> The gentlewoman from New Jersey asks unanimous consent for the present consideration of a concurrent resolution, which the Clerk will report.

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[1] John N. Garner, of Texas, Speaker.

[2] Second session Sixty-seventh Congress, Record, p. 7410.

[3] Joseph Walsh, of Massachusetts, Speaker pro tempore.

[4] First session Seventy-second Congress, Record, p. 9836.

Chapter CCXIII.[1]

CALENDAR WEDNESDAY.

881. Wednesdays are set apart for the consideration of unprivileged bills on House and Union Calendars taken up on call of committees.

Origin and development of section 7 of Rule XXIV.

Section I of Rule XXIV provides:

On Wednesday of each week no business shall be in order except as provided by paragraph 4 of this rule unless the House by a two-thirds vote on motion to dispense therewith shall otherwise determine. On such a motion there may be debate not to exceed five minutes for and against. On a call of committees under this rule bills may be called up from either the House or the Union Calendar, excepting bills which are privileged under the rules; but bills called up from the Union Calendar shall be considered in Committee of the Whole House on the state of the Union. This rule shall not apply during the last two weeks of the session. It shall not be in order for the Speaker to entertain a motion for a recess on any Wednesday except during the last two weeks of the session: *Provided,* That not more than two hours of general debate shall be permitted on any measure called up on Calendar Wednesday, and all debate must be confined to the subject matter of the bill, the time to be equally divided between those for and against the bill: *Provided further,* That whenever any committee shall have occupied one Wednesday it shall not be in order, unless the House by a two-thirds vote shall otherwise determine, to consider any unfinished business previously called up by such committee, unless the previous question had been ordered thereon, upon any succeeding Wednesday until the other committees have been called in their turn under this rule: *Provided,* That when, during any one session of Congress,

[1] This chapter has no analogy with any previous chapter.

all of the committees of the House are not called under the Calendar Wednesday rule, at the next session of Congress the call shall commence where it left off at the end of the preceding session.

This rule is supplementary to section 4 of Rule XXIV and devotes one day each week to the call of committees formerly confined to the "morning hour" under that rule. It also extends to Union Calendar bills the privilege restricted to bills on the House Calendar when the committees are called on days other than Wednesday.

The provision for the call of the committees during the morning hour was first included in the rules in 1885 [1] and was adopted in its present form in 1890.[2] But the increasing pressure of privileged business and the consequent infrequency with which the rule could be invoked, especially during the latter part of a session, created a demand for some provision which would insure the calling of committees with more certainty and regularity.

On March 1, 1909,[3] in response to this demand, the Committee on Rules reported, and the House adopted, as section 4 of Rule XXVI, a rule providing for the call of committees on each Wednesday with highly privileged status. This new section conformed in all respects to the first paragraph of the present rule with the exception that it might be dispensed with by majority vote and the motion to recess was not prohibited.

Upon the convening of the succeeding Congress,[4] the rule was amended to require a two-thirds vote on the motion to dispense with the call, and the motion to recess was interdicted. In this form it was retained in the revision of 1911 [5] without change except that it was transferred from Rule XXVI and placed with other provisions relating to the order of business, becoming section 7 of Rule XXIV as at present.

The rule was rendered largely ineffective, however, by the long-drawn-out consideration of bills with which single committees monopolized the day for many weeks to the exclusion of others. Notable instances were the consideration of the bill (H. R. 23377), the codification bill reported by the Committee on the Judiciary in the Sixty-first Congress, and the bill (H. R. 15902), the printing bill reported by the Committee on Printing in the Sixty-third Congress. The dilatory consideration of such bills sometimes consumed the day during an entire session. This defect was remedied in the Sixty-fourth [6] Congress, when two provisos were added to the rule limiting debate and prohibiting committees from occupying more than two Wednesday in succession, and in the Seventy-second [7] Congress when the number of Wednesdays which might be occupied by a committee was restricted to one, and the last proviso adopted continuing an uncompleted call of committees into the next session of a Congress. In this form the rule has been adopted by each succeeding Congress.

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[1] First session Forty-ninth Congress, Record, p. 337.

[2] House Report No. 23, first session Fifty-first Congress.

[3] Second session Sixtieth Congress, Record, p. 3567.

[4] First session Sixty-first Congress, Record, p. 22.

[5] First session Sixty-second Congress. Record, pp. 18, 80.

[6] First session Sixty-fourth Congress, Record, p. 1209.

[7] First session Seventy-second Congress, Record, pp. 10, 83.

The call of the committees under this rule has largely superseded the call during the morning hour which, though still in effect, is seldom used and is now practically obsolete.

882. On Wednesdays the call of committees has precedence of a request for unanimous consent.

On Wednesday, January 12, 1910,[1] Mr. Albert Douglass, of Ohio, addressed the Chair and submitted a request for unanimous consent to present and have considered a resolution which he sent to the desk.

The Speaker[2] said:

The Chair does not know what the resolution is; but, except for the incidental transaction of business, such as to extend remarks, the Chair would not be at liberty to take up a matter that is not in harmony with Calendar Wednesday.

Objection is heard. The Chair does not think, even if objection had not been made, that the gentleman could be recognized for that purpose, because we might use the balance of the session and cut out all Calendar Wednesdays.

883. On Wednesday, December 13, 1911,[3] Mr. James A. Hughes, of West Virginia, asked unanimous consent for an order setting aside a day for eulogies on the life, character, and services of the late Senator Stephen B. Elkins.

Pending which, Mr. Joseph T. Robinson, of Arkansas, requested unanimous consent for a change of reference of certain bills from the Committee on Public Lands to the Committee on Indian Affairs.

Mr. James R. Mann, of Illinois, said:

This being Calendar Wednesday, it is not in order to ask unanimous consent for the consideration of anything except the call of the calendar, unless the House has dispensed with Calendar Wednesday under the rule.

The Speaker[4] sustained the point of order and directed the Clerk to call the committees.

884. On Wednesday, March 13, 1918,[5] the Journal having been approved, Mr. John E. Raker, of California, by direction of the Committee on Woman Suffrage, submitted a request for unanimous consent to change the reference of a bill.

The Speaker declined to entertain the request, and thereupon Mr. Raker proposed to offer a motion to that effect.

The Speaker[4] ruled that the motion was not in order on Calendar Wednesday.

885. On Wednesday, August 13, 1919,[6] the call of the committees being in order, Mr. James P. Aswell, of Louisiana, asked unanimous consent to address the House for one minute.

The Speaker[7] said:

On Calendar Wednesday the Chair thinks that is not permissible. The gentleman can undoubtedly get time on the bill which will come up, on which there will be general debate.

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[1] Second session Sixty-first Congress, Record, p. 554.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Second session Sixty-second Congress, Record, p. 308.

[4] Champ Clark, of Missouri, Speaker.

[5] Second session Sixty-fifth Congress, Record, p. 3443.

[6] First session Sixty-sixth Congress, Record, p. 3841.

[7] Frederick H. Gillett, of Massachusetts, Speaker.

Thereupon Mr. Oscar E. Keller, of Minnesota, presented a request for unanimous consent to extend his remarks in the Record.

The Speaker said:

The Chair does not think that is in order on Calendar Wednesday. After the calendar is disposed of the gentleman can do that. The Clerk will call the committees.

Subsequently,[1] the business in order under the rule having been concluded for the day, Mr. William D. Upshaw, of Georgia, was' recognized to present a request for unanimous consent to extend remarks in the Record, and Mr. Clarence MacGregor, of New York, was recognized and secured unanimous consent to address the House for two minutes.

886. On December 10, 1919[2] following the approval of the Journal, Mr. J. M. C. Smith, of Michigan, asked unanimous consent that Senate concurrent resolution No. 9 be stricken from the calendar.

The Speaker[3] declined recognition for that purpose.

Thereupon Mr. Willis J. Hulings, of Pennsylvania, submitted a request for unanimous consent to have printed in the Record a memorial from the American petroleum producers of Mexico.

The Speaker said:

The Chair thinks the gentleman should defer that until tomorrow morning. This is Calendar Wednesday. The Clerk will call the committees.

887. On January 13, 1930,[4] Mr. Henry B. Steagall, of Alabama, submitted a request for unanimous consent to address the House on the following Wednesday.

The Speaker[5] declined to recognize for that purpose and said:

The Chair will call the attention of the gentleman to the fact that next Wednesday is Calendar Wednesday, and it is not the custom of the House to permit speeches to be made on that day. The Chair does not know whether Calendar Wednesday will be dispensed with.

The Chair has made it a practice not to recognize Members to address the House on Calendar Wednesday.

888. The Speaker declines to entertain requests for unanimous consent to establish special orders for Wednesday.

On February 24, 1930,[6] Mr. William J. Sears, of Florida, by unanimous consent, was granted permission to address the House on the following Wednesday.

On February 24,[7] Mr. Tom D. McKeown, of Oklahoma, Mr. William C. Lankford, of Georgia, Mr. Hamilton Fish, of New York, Mr. John C. Schafer, of Wisconsin, and Mr. Fiorello H. LaGuardia, of New York, respectively, were accorded consent to address the House on Wednesday immediately after the expiration of the time allotted to Mr. Sears.

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[1] Record, p. 3865.

[2] Second session Sixty-sixth Congress, Record, p. 365.

[3] Frederick E. Gillett, of Massachusetts, Speaker.

[4] First session Seventy-first Congress, Record, p. 1530.

[5] Nicholas Longworth, of Ohio, Speaker.

[6] Second session Seventy-first Congress, Record, p. 4172.

[7] Record, pp. 4230, 4231.

On the following Wednesday [1] the Speaker announced:

The Chair is in some doubt as to whether it is his duty to recognize, first, those gentlemen who have obtained unanimous consent to address the House to-day, this being Calendar Wednesday, or to direct the call of committees. Calendar Wednesday business has not been formally dispensed with, either by unanimous consent or, as it could be now, by a two-thirds vote of the House. The present occupant of the chair has made it a general practice not to recognize for unanimous consent a request to address the House on Calendar Wednesday. However, the consent has been given while someone else was temporarily in the chair. The Chair thinks that under the circumstances perhaps the best mode of procedure would be to recognize those gentlemen who have obtained unanimous consent to address the House, but the Chair states that he will not consider this as a precedent in the future.

The Chair desires to state that in recognizing the special orders in this instance he will not regard this as a precedent which should govern his ruling on the subject on some future occasion.

Calendar Wednesday from the beginning—and the Chair remembers when it was adopted—was for the purpose of preventing any other business being transacted on that day, leaving the day free for the call of committees, and the rule is very strong on that subject. The rule provides:

"On Wednesday of each week no business shall be in order except as provided by paragraph 4 of this rule unless the House by a two-thirds vote on motion to dispense therewith shall otherwise determine."

Now, the Chair is in some doubt, where unanimous consent is given to some Member to address the House on Calendar Wednesday, whether that abolishes Calendar Wednesday to the extent of that time or whether it abolishes it altogether. The Chair wants to give some consideration to that point, and therefore the Chair desires to state that he will not feel that he will be bound by this precedent in the future.

889. The House decided that a joint resolution relating to the taking of the census was not in order for consideration on Wednesday.[2]

On Wednesday, March 16, 1910,[3] the call of committees being in order under the rule, Mr. Edgar D. Crumpacker, of Indiana, called up, as privileged, the joint resolution (H. J. Res. 172) amending the census act.

Mr. James R. Mann, of Illinois, raised a question as to whether consideration of the joint resolution was in order unless the business in order on Wednesday was dispensed with by a two-thirds vote.

The Speaker [4] overruled the point of order on the ground that propositions relating to the census were privileged under the Constitution.

Mr. John J. Fitzgerald, of New York, appealed from the decision of the Chair.

The question being submitted to the House, the decision of the Speaker was overruled, yeas 112, nays 163.

890. When the House adjourns on Tuesday without voting on a proposition on which the previous question has been ordered, the question does not come up on Wednesday but on the following Thursday.

On Wednesday, February 21, 1912,[5] immediately after the approval of the Journal, on motion of Mr. Oscar W. Underwood, of Alabama, the proceedings in

[1] Record, p. 4302. Nicholas Longworth, of Ohio, Speaker.

[2] In connection with this decision see sections 7379 and 8049 of this volume.

[3] Second session Sixty-first Congress, Journal, p. 873; Record, p. 3240.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] Second session Sixty-second Congress, Record, p. 2293.

order under the Calendar Wednesday rule were dispensed with to permit a vote on the motion to recommit the tariff bill, on which the previous question had been ordered but which had not been voted on when the House adjourned the previous day.

891. On June 4, 1919,[1] the Speaker announced that the day was Calendar Wednesday, and directed a call of the committees.

Mr. Finis J. Garrett, of Tennessee, made the point of order that the unfinished business was the vote on the agricultural appropriation bill, on which the previous question had been ordered before adjournment on the preceding day.

The Speaker[2] said:

> The Chair overrules the point of order. That has been decided. It was decided last by the gentleman from Missouri, Mr. Speaker Clark, holding that that should go over until Thursday instead of Wednesday.

892. On Wednesday, June 18, 1919,[3] in response to a demand by Mr. Philip P. Campbell, of Kansas, for the regular order, the Speaker held that the regular order was the call of the committees under the rule.

Mr. Joseph Walsh, of Massachusetts, raised the question of order that the vote had not yet been taken on agreeing to the conference report on the deficiency appropriation bill, on which the previous question had been ordered prior to adjournment on the previous day.

The Speaker[2] ruled that unfinished business from Tuesday was not considered on Wednesday and would be in order on Thursday.

893. On July 16, 1919,[4] in response to a parliamentary inquiry submitted by Mr. John N. Garner, of Texas, the Speaker[2] ruled that the vote on the motion to recommit the sundry civil appropriation bill, on which the previous question had been ordered before adjournment on the previous day, was not in order on Wednesday, but would be in order as the unfinished business on the following Thursday.

894. On Tuesday, April 13, 1926,[5] the House had ordered to be read a third time the bill (H. R. 10860) to authorize the Secretary of Commerce to dispose of certain lighthouse reservations and to increase the efficiency of the Lighthouse Service, with an amendment, and with the recommendation that the amendment be agreed to and the bill as amended be passed.

Mr. Thomas L. Blanton, of Texas, moved to recommit the bill to the Committee on Interstate and Foreign Commerce, and the previous question was ordered on the motion, when Mr. James S. Parker, of New York, asked when the pending motion would be voted on if the House should adjourn before the vote was taken.

The Speaker pro tempore[6] said:

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[1] First session Sixty-sixth Congress, Record, p. 638.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixty-sixth Congress, Record, p. 1303.

[4] First session Sixty-sixth Congress, Record, p. 2668.

[5] First session Sixty-ninth Congress, Record, p. 7392.

[6] John Q. Tilson, of Connecticut, Speaker pro tempore.

The previous question has been ordered on the motion to recommit and also on the bill and all amendments thereto. The House began to divide, but that vote has been vacated. So that the question will be on the motion to recommit. And that will come up on Thursday morning.

Thereupon, the House adjourned, and the following day being devoted to Calendar Wednesday business, the vote on the motion to recommit recurred on the following Thursday.[1]

895. When the House adjourns on Wednesday without voting on a proposition on which the previous question has been ordered the question does not go over to the following Wednesday but comes up on the next legislative day.

On January 23, 1913,[2] during a discussion as to the parliamentary status of the bill (H. R. 23669) providing for the disposition of town sites in connection with reclamation projects, on which the previous question had been ordered and which was still pending at adjournment on the previous day, Mr. James R. Mann, of Illinois, inquired whether the bill would come up as unfinished business on the next Wednesday.

The Speaker[3] said:

No; the Chair may as well rule now and be through with it. The Chair holds that where the previous question has been ordered on a bill under consideration on Calendar Wednesday which is unfinished it is the unfinished business on Thursday. As this is the first ruling ever made upon this question, if any gentleman desires to test it, he has the right of appeal.

896. On Wednesday the call of committees has precedence of a motion to discharge a committee from consideration of a privileged resolution of inquiry.

On Wednesday, June 18, 1919,[4] when the Journal had been read and approved, Mr. Norman J. Gould, of New York, moved to discharge the Committee on Appropriations from the further consideration of the resolution (H. Res. 14) requesting information from the President as to the expenditure of the appropriation for national security and defense, the resolution having been referred to the committee more than a week previous.

The Speaker[2] ruled that the motion was not in order on a Wednesday devoted to a call of the committees.

897. On Wednesday, August 13, 1919,[5] upon the approval of the Journal, Mr. Thomas L. Blanton, of Texas, proposed to call up as unfinished business the resolution (H. Res. 225) directing the Secretary of Labor to transmit to the House certain information, which was under consideration when adjournment was taken on the preceding day.

The Speaker[3] held that it was not in order on Wednesday but would come up on Thursday following.

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[1] Record, p. 7524.

[2] Third session Sixty-second Congress, Record, p. 1929.

[3] Champ Clark, of Missouri, Speaker.

[4] Second session Sixty-fifth Congress, Record, p. 6912.

[5] First session Sixty-sixth Congress, Record, p. 3841.

898. A resolution of inquiry may not be called up on Wednesday.

On May 22, 1918,[1] it being Calendar Wednesday, Mr. Martin B. Madden, of Illinois, offered as privileged the following resolution of inquiry:

Resolved, That the Secretary of the Treasury be requested to report to the House the cause of the delay in making adjustments and payments and also to advise the House of the number of allotments thus far adjusted and paid, the number adjusted on which payments have not been made, and the number of unadjusted allotments; the number of persons employed in the War Risk Bureau, the aggregate monthly expense of such bureau, the percentage cost of adjustment and payment, and when the work of the bureau is likely to be current.

Mr. Thetus W. Sims, of Tennessee, objected that it was not in order to consider the resolution on Wednesday.

The Speaker[2] sustained the point of order and directed the Clerk to call the roll of committees.

899. A conference report may not be considered on a Wednesday on which the call of committees is in order.

On February 9,1910,[3] it being Wednesday, Mr. James A. Tawney, of Minnesota, asked unanimous consent for the consideration of the conference report on the urgent deficiency bill.

The Speaker[4] said:

This is Calendar Wednesday. The gentleman from Minnesota asks recognition to ask unanimous consent to postpone the operation of Calendar Wednesday for the purpose of considering a conference report. It would be in order for the gentleman from Minnesota to move to dispense with Calendar Wednesday entirely, and on a vote of two-thirds of the House Wednesday for that day would be devoted to business under the rules of the House other than that called for by Rule XXIV.

900. On Tuesday, July 21, 1914,[5] pending a motion to adjourn, Mr. Julius Kahn, of California, as a parliamentary inquiry, asked if the conference report on the sundry civil appropriation bill, then under consideration, would be in order on the following day.

The Speaker[6] said:

The Chair has ruled on two or three different occasions that even a conference report could not be considered on Calendar Wednesday except by unanimous consent. Now, this is a part of a conference report. The present Speaker ruled that no bill could be taken up for consideration on Calendar Wednesday without a motion to dispense with that day. The Chair thinks, under all the circumstances and rulings on the subject of Calendar Wednesday, that it goes over until Thursday. The Chair is desirous, as are the Members of the House, of observing the integrity of Calendar Wednesday.

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[1] First session Sixty-sixth Congress, Record, p. 1303.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-first Congress, Record, p. 1649.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] Second session Sixty-third Congress, Record, p. 12458.

[6] Champ Clark, of Missouri, Speaker.

901. On February 29, 1928,[1] a Calendar Wednesday, Mr. William R. Green, of Iowa, rising to a parliamentary inquiry, asked if it would be permissible to call up the conference report on the bill (H. R. 7201) to provide for the settlement of certain claims of American nationals against Germany and of German nationals against the United States, for the ultimate return of all property of German nationals held by the Alien Property Custodian, and for the equitable apportionment among all claimants of certain available funds.

The Speaker[2] replied:

The Chair does not think that will be in order on Calendar Wednesday except by unanimous consent.

902. Propositions relating to impeachment are not in order on Calendar Wednesday.—On Wednesday, May 5, 1926,[3] following the reading and approval of the Journal, Mr. John E. Rankin, of Mississippi, having been recognized to submit a parliamentary inquiry, asked when the resolution instituting impeachment proceedings against Frederick A. Fenning, a Commissioner of the District of Columbia, which had been reported on the preceding day from the Committee on the Judiciary, would be taken up for consideration.

The Speaker[2] replied that it would be taken up on the following day.

Mr. Rankin submitted that it was in order for immediate consideration.

The Speaker said:

It will come the first thing to-morrow; that is, it will be in order to move the previous question. It is not in order on Calendar Wednesday.

903. The call of committees takes precedence of a contested-election case called up on Calendar Wednesday.

On Wednesday, November 2, 1921,[4] during a call of the committees, Mr. Cassius C. Dowell, of Iowa, proposed to call up for consideration the contested-election case of Kannamer *v.* Rainey.

Mr. Finis J. Garrett raised the question of its consideration on Wednesday.

The Speaker[5] held it was not in order and could be considered only by unanimous consent.

904. The motion to go into the Committee of the Whole for the consideration of revenue or appropriation bills is not in order on Wednesday.

On January 16, 1911,[6] Mr. John A. T. Hull, of Iowa, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the Army appropriation bill.

Mr. John J. Fitzgerald, of New York, proposed, as preferential, a motion to discharge the Committee on Ways and Means from the consideration of the bill (H. R. 19784) to suspend the collection of duties on meats.

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[1] First session Seventieth Congress, Record, p. 3769.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] First session Sixty-ninth Congress, Record, p. 8747.

[4] First session Sixty-seventh Congress, Record, p. 7214.

[5] Frederick H. Gillett, of Massachusetts. Speaker.

[6] Third session Sixty-first Congress, Record, p. 965.

In the course of his decision the Speaker [1] said, incidentally:

It is also undeniable that the words of Rule XXIV, section 4 [2]—

"On Wednesday of each week no business shall be in order except as provided by paragraph 4 of Rule XXIV (the rule for the call of committees), unless the House by a two-thirds vote on motion to dispense therewith shall otherwise determine"—

prevent the Chair on Wednesdays from entertaining a motion to go to the consideration of general appropriation bills, unless the House by a two-thirds vote shall have cleared the way for such a motion.

905. On a Wednesday on which the call of committees was in order the entering, but not the consideration, of a motion to reconsider was held to intervene.

On Wednesday, May 4, 1921,[3] immediately upon the approval of the Journal, Mr. Joseph W. Fordney, of Michigan, offered a motion to reconsider the vote by which the House, on the preceding day, had declined to order the third reading of the joint resolution (S. J. Res. 38) admitting Emil S. Fischer to citizenship.

Mr. Otis W. Wingo, of Arkansas, made the point of order that the motion could not be entertained on Wednesday.

The Speaker [4] said:

The rule provides:

"When a motion has been made and carried or lost, it shall be in order for any Member of the majority, on the same or succeeding day, to move for the reconsideration thereof."

On the face of that the gentleman from Michigan, who voted yesterday with the majority, is obviously entitled to-day to make a motion to reconsider. The gentleman from Arkansas makes the point of order that this being Calendar Wednesday the motion is not in order; that this being Calendar Wednesday, no business is in order except the business prescribed in the rule for that day. That raises a close question. But the Chair thinks that when two rules conflict, as they do here—one saying that in this case the motion to reconsider could be made yesterday or to-day and the other saying that to-day being Calendar Wednesday only certain business which does not embrace this motion to reconsider can be transacted—the two rules should, if possible, be so interpreted as to give effect to both. And the Chair thinks that in this instance it can be readily done, because the purpose of the rule defining and limiting the business which can be transacted on Calendar Wednesday is to preserve the time of Calendar Wednesday exclusively for that business and not allow other matters to come in and consume any of that time.

Now, it does not necessarily follow that when a gentleman makes a motion to reconsider he has the right to have that motion immediately considered and voted on and debated. The fact that a motion to reconsider can be made does not carry with it the right to debate it or to vote upon it at that time, but simply makes it pending. And therefore, if the Chair should rule that this motion to reconsider can be made to-day, the Chair would hold it could not be acted upon to-day, because Calendar Wednesday is set aside for other business. It could only be acted upon at some future time when business of that class was in order in the House. The Chair thinks that such interpretation saves both Calendar Wednesday and the right of reconsideration. It allows a motion to reconsider to be made, as the rule provides, on either Tuesday or Wednesday, but it does not allow it to interfere with the business of Calendar Wednesday or take any time on that day, but simply allows a Member to make the motion which is then pending and which can then be brought up at a day when that business is in order.

Therefore the Chair overrules the point of order.

Thereupon Mr. Wingo moved to lay the motion to reconsider on the table.

The Speaker declined to entertain the motion on Wednesday.

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[1] Champ Clark, of Missouri, Speaker.

[2] New section 7.

[3] First session Sixty-seventh Congress, Record, p. 1032.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

906. A Senate bill privileged because of similarity to a bill on the House Calendar may not be called up on Wednesday.

On Wednesday, February 26, 1930,[1] following the approval of the Journal, Mr. Edward E. Denison, of Illinois, asked unanimous consent to call up the bill (S. 3297) to extend the times of commencing and completing the construction of a bridge across the Ohio River.

In response to an inquiry from the Speaker, Mr. Denison explained that a bill of similar tenor was already on the House Calendar and that he was authorized by the Committee on Interstate and Foreign Commerce to call up the bill from the Speaker's table.

The Speaker[2] held:

Inasmuch as this is Calendar Wednesday, the Chair thinks it will require unanimous consent to consider the bill to-day.

Mr. David H. Kincheloe, of Kentucky, submitted that the bill was privilege and could be called up by right on any day.

The Speaker said:

Not on Calendar Wednesday, if it is objected to.

907. While a bill may be reported for printing on Wednesday, the right to call up for immediate consideration is not thereby implied.

On Wednesday, July 6, 1921,[3] Mr. Joseph W. Fordney, of Michigan, from the Committee on Ways and Means, presented the report of that committee on the tariff bill.

Mr. Finis J. Garrett, of Tennessee, made the point of order that this being Calendar Wednesday, no business was in order except the call of committees.

The Speaker[4] said:

The Chair will consider the right to report the bill. Clause 56 of Rule XI provides that the "following-named" committees shall have leave to report at any time on the matters herein stated, and the Calendar Wednesday rule provides that on Wednesday of each week no business shall be in order except as provided by paragraph 4 of that rule, unless the House by a two-thirds vote on motion dispenses therewith. The Chair is inclined to think it is business, but, on the other hand, the Chair thinks that when there are two rules that are contradictory they should be both interpreted in such a way as to carry out the obvious intention of the rule. The only reason that no business can be transacted on Calendar Wednesday is so that the time on Calendar Wednesday shall not be taken up to prevent consideration of the business which is assigned that day.

In response to a question interjected by Mr. Joseph Walsh, of Massachusetts, as to whether the right to report the bill implied the right to call up for consideration on Wednesday, the Speaker continued:

The Chair thinks not. The Chair does not think that would follow. The Chair is still disposed to follow the line of reasoning which he commenced and hold that the purpose of Calendar Wednesday is to preserve that day for a certain class of legislation, and no business ought to be allowed to come in which takes time and interferes with that purpose. But the House will re-

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[1] Second session Seventy-first Congress, Record, p. 4303.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] First session Sixty-seventh Congress, Record, p. 3384.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

member that the Chair some weeks ago held that a motion to reconsider could be submitted on Calendar Wednesday, although the Chair held it could not be called up and acted upon on Calendar Wednesday. The Chair thinks the same line of reasoning would hold here; that reports could be made on Calendar Wednesday, inasmuch as the report does not occupy any appreciable time and does not interfere with the purpose of Calendar Wednesday, but it would not be permissible to call it up for action upon Calendar Wednesday. Reports can be made through the basket on Calendar Wednesday as on other days, and it does not seem to the Chair reasonable to, hold that they can not be made from the floor. The Chair overrules the point of order.

908. A proposition involving a question of privilege supersedes business in order on Wednesday.

On Wednesday, August 2, 1911,[1] the call of committees being in order, Mr. Oscar W. Underwood, of Alabama, claimed the floor for a question of privilege.

The Speaker[2] recognized Mr. Underwood, who thereupon addressed the House on a question of personal privilege.

909. On February 21, 1912,[3] it being Wednesday, Mr. Richard Pearson Hobson, of Alabama, claiming the floor for a question of personal privilege, offered a resolution providing for the appointment of a committee of investigation.

Mr. Fred L. Blackmon, of Alabama, raised the point of order that the regular order was the call of committees.

The Speaker[4] said:

The Chair looked into that matter and can not believe that the House ever intended, by the establishment of Calendar Wednesday, to take away the right of a Member to rise to a question of personal privilege. The Chair wants to preserve Calendar Wednesday. Matters of privilege could not intervene, but there is a great difference between a privileged question and a question of privilege. The gentleman from Alabama rises to a question of privilege.

910. On January 15, 1913[5] which was Wednesday, Mr. Thetus W. Sims, of Tennessee, rose to present a question of personal privilege.

The Speaker[6] reminded him that the day was Calendar Wednesday and inquired as to the ground on which he claimed the floor.

Mr. Sims, having submitted a statement of fact, the Speaker ruled that a question of privilege was presented and recognized him to address the House.

911. On January 3, 1917,[7] a Calendar Wednesday, Mr. William R. Wood, of Indiana, rising to a question of privilege, offered the following resolution:

Whereas Thomas W. Lawson, of Boston, gave to the public a statement which appears in the daily newspapers under date of December 28 and 29, 1916, in which he says, amongst other things, that "If it was actually believed in Washington there was to be a real investigation of last week's leak, there would not be a quorum in either the Senate or House next Monday, and a shifting of bank accounts similar to those in the good old sugar-investigation days," and in another statement, which appears in the daily press of December 31, 1916, he says, "The good old Capitol has been wallowing in Wall Street leak grafts for 40 years, wallowing hale and hearty"; and

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[1] First session Sixty-second Congress, Record, p. 3510.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Sixty-second Congress, Record, p. 2295.

[4] Champ Clark, of Missouri, Speaker.

[5] Third session Sixty-second Congress, Record, p. 1569.

[6] Champ Clark, of Missouri, Speaker.

[7] Second session Sixty-fourth Congress, Record, p. 807.

Whereas the statements of the aforesaid Thom W. Lawson, and each of them, affect the dignity of this House and the integrity of its proceedings and the honesty of its Members:

Resolved, That the Speaker appoint a select committee of five Members of the House and that such committee be instructed to inquire into the charges made by the aforesaid Thomas W. Lawson, and for such purposes it shall have the power to send for persons and papers and enforce their appearance before said committee, and to administer oaths, and shall have the right to make report at any time.

Mr. Finis J. Garrett, of Tennessee, made the point of order that the resolution was not in order on Wednesday.

The Speaker [1] overruled the point of order and recognized Mr. Wood to move disposition of the resolution.

912. An exceptional instance wherein the consideration of a veto message from the President was held to be in order on Wednesday.

An early instance in which a question of constitutional privilege was held to supersede the business in order under the rules.

On Wednesday, August 14, 1912,[2] the Speaker laid before the House a message from the President announcing his disapproval of the revenue bill.

Mr. Oscar W. Underwood, of Alabama, moved that the House on reconsideration pass the bill, the objections of the President to the contrary notwithstanding.

Mr. James R. Mann, of Illinois, made the point of order that the motion could not be entertained on Wednesday and cited a decision to that effect made by the House in 1910.[3]

Mr. Joseph G. Cannon, of Illinois, pointed out that the proposition to take up the message on Wednesday corroborated the position he had taken on the occasion in 1910 referred to by Mann, and said:

I recollect very well the ruling that I made while I was Speaker of the House touching the consideration of a question based on the Constitution. After discussion, the ruling of the Speaker was by a majority vote of the House reversed. I am satisfied that the House was in error. Two wrongs do not make a right; two precedents or a dozen do not sanctify an error or a mistake. If this be a privileged question, having its foundation in the Constitution, then it is higher than any rule of this House that contravenes that privileged question; and although the former decision might have been made by some other individual than myself then occupying the Speaker's chair, I should feel about it just as I feel now. Therefore, I believe the motion of the gentleman to be higher than any rule of this House, and that the motion is in order.

The Speaker [4] ruled:

The truth about what the House did in the spring of 1910 as to the question of constitutional privilege raised on the census bill by the gentleman from Indiana, Mr. Crumpacker, was stated correctly by the gentleman from Alabama, Mr. Underwood. It is not necessary for us to forget everything we know in order to arrive at a conclusion about this matter. The very same men who are arguing this matter here to-day participated very largely in those debates. The transaction which is referred to, on motion of the gentleman from Indiana, was just simply part and parcel of a general parliamentary revolution, on which the majority of this House had made up its mind it was going to enter. The present occupant of the chair stated that on the floor of the House in words as plain as the English language could make it—that it was a revolution in which we were engaged and that there was no use to mince words about it. So did the gentleman from

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-second Congress, Record, p. 10936.

[3] See section 8033 of this chapter.

[4] Champ Clark, of Missouri, Speaker.

Alabama and others. We never made any pretense that our proceedings were other than revolutionary in a parliamentary sense.

The Chair is still in doubt whether the Crumpacker resolution is of constitutional privilege or not, but the Chair has no doubt whatever that this proposition now pending to act on this veto message is bottomed on a constitutional mandate. The language of the Constitution is:

"If he approve, he shall sign it; but if not, he shall return it with his objections to the House in which it shall have originated, who shall enter the objections at large on the Journal and proceed to reconsider it."

The same motions which apply to any other matter before the House apply to this; that is, to postpone, and so forth. And the Chair thinks the Chair has demonstrated by his whole course here that he is as jealous of preserving the sanctity of Calendar Wednesday as any other Member of the House.

But to say that a question of great constitutional importance like this shall not be passed on on Calendar Wednesday might mean, in certain contingencies, a very serious injury, or at least a grievous inconvenience to the Government of the United States or to the American people. For example, the law of the land is that on the second Wednesday in February the two Houses of the Congress shall meet in joint session to count the electoral vote for President and Vice President, and the framers of that statute were so careful and so wise as to direct that on that day the Congress must be in session—a most extraordinary and drastic provision; and certainly nobody will seriously contend that notwithstanding the rule establishing Calendar Wednesday the Congress could not proceed to discharge one of its most important duties.

In the winter of 1876–77 Mr. Speaker Randall, one of the greatest Speakers that every occupied the chair, overruled point after point that was justified to be made by the rules of the House, and forced to a conclusion the election of a President of the United State as being a matter of supreme importance; and the passions of that day having subsided, history has vindicated him for what at that time was denounced as being a high-handed proceeding and a bold usurpation of power.

The Chair is of opinion that action on this veto is by a constitutional mandate, and that it has precedence of the business of Calendar Wednesday.

Mr. Underwood conceded:

Mr. Speaker, I agree that it has been held repeatedly heretofore that it is in the power of the House to postpone action on a veto message coming from the President; but it is a mandate of the Constitution that the House shall act on this message. If we admit as a precedent that a veto message can not be acted upon on Wednesday, it might at some time bring this House to a condition where it could not act on a veto message at all. It might be that Calendar Wednesday was the last day of a session; that the message came in on Calendar Wednesday, and, although a majority wanted to act on the measure one way or the other, they might not be able to command the two-thirds vote to set aside Calendar Wednesday.

To this Mr. Mann rejoined:

The gentleman will recall that the rule in reference to Calendar Wednesday provides that it shall not be in effect during the last two weeks of the session, so that if there was a decision to adjourn on a particular day the rule with reference to Calendar Wednesday would not be in force.

Mr. Mann, while expressing approval of the decision, appealed from the decision of the Chair, and those who had supported the contention of former Speaker Cannon, in the parliamentary battle of 1910, considering the decision a vindication of their position on that occasion, voted to lay the appeal on the table, Mr. Mann himself voting to table his own appeal.

On a yea-and-nay vote the motion to lay the appeal on the table was agreed to, yeas 240, nays 10.

913. Under the later practice messages from the President are laid before the House on Calendar Wednesday by unanimous consent or on motion to dispense with proceedings in order on that day.

On December 5, 1928,[1] it being Calendar Wednesday, a message in writing from the President of the United States, relative to the Budget, was communicated to the House by one of his secretaries.

The question of expediting early consideration being raised, Mr. John Q. Tilson, of Connecticut, asked unanimous consent for the immediate reading of the message.

The Speaker[2] put the question.

The gentleman from Connecticut asks unanimous consent that the Chair may lay the Budget message before the House. Is there objection?

There being no objection, the message was read and, on motion of Mr. Tilson, was referred to the Committee on Appropriations and ordered to be printed.

914. On May 11, 1932,[3] it being Calendar Wednesday, the Speaker[4] proposed to lay before the House a message from the President, returning without his approval the bill (H. R. 6662), the tariff bill.

Mr. William H. Stafford, of Wisconsin, raised the question that the reading and consideration of the message was not in order on Calendar Wednesday.

Whereupon, Mr. Charles R. Crisp, of Georgia, moved to dispense with the proceedings in order on Calendar Wednesday.

The question being taken, the House determined by a two-thirds vote to dispense with the business in order under the rule.

The Speaker then laid before the House the message of the President.

915. The Speaker is constrained to recognize on Wednesday any Member proposing a motion to dispense with proceedings in order on that day.

On Wednesday, June 18, 1919,[5] the Journal having been read and approved, Mr. Charles Pope Caldwell, of New York, addressed the Chair and proposed a motion to dispense with the proceedings in order on that day.

Mr. Frank W. Mondell, of Wyoming, raised the question of order that Mr. Caldwell had not been recognized and was not entitled to prior recognition for that purpose.

The Speaker[6] ruled:

The Chair thinks he ought to recognize any gentleman for that purpose.

916. The motion to dispense with business in order on a particular Wednesday may be made and considered on any preceding day.

On Tuesday, December 21, 1920,[7] Mr. Frank W. Mondell, of Wyoming, moved to dispense with business in order on the following Wednesday.

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[1] Second session Seventieth Congress, Record, p. 101.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] First session, Seventy-second Congress, Record, p. 10035.

[4] John N. Garner, of Texas, Speaker.

[5] First session Sixty-sixth Congress, Record, p. 1303.

[6] Frederick H. Gillett, of Massachusetts, Speaker.

[7] Third session Sixty-sixth Congress, Record, p. 596.

The question having been raised as to the consideration of such motion on a day other than on the Wednesday to which it was intended to apply, the Speaker[2] held the motion might be made on any preceding day.

917. On motion to dispense with proceedings in order on Wednesday, debate is limited to 10 minutes, to be divided not to exceed 5 minutes for and 5 minutes in opposition to the motion.

On Wednesday, February 6, 1918,[1] Mr. Henry D. Flood, of Virginia, offered a motion to dispense with Calendar Wednesday business for the day, and submitted a parliamentary inquiry as to the division of the time for debate on the motion.

The Speaker[2] in accordance with the rule, held that debate was limited to 10 minutes, 5 minutes on each side, and recognized Mr. Flood for 5 minutes.

918. In the absence of bills eligible for consideration under call of committees on Wednesday, a motion to dispense with business in order on that day is not required.

On March 24, 1909,[3] the day being Wednesday, Mr. Sereno E. Payne, of New York, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the tariff bill.

Mr. Augustus P. Gardner, of Massachusetts, rose to a parliamentary inquiry and made the point of order that the business in order on Wednesday under the rules had not been dispensed with.

The Speaker[4] said:

> In answering the parliamentary inquiry of the gentleman from Massachusetts the Chair must take notice not only of the rules but what there is for consideration under the rules, if anything. The Chair has inquired, and that inquiry, in the opinion of the Chair, has required him to state to the House that there are no bill on any calendar of the House, save alone the bill known as the "tariff bill," which bill would not be in order on a Calendar Wednesday. In that condition, answering the parliamentary inquiry, in the opinion of the Chair, it is not necessary to move to dispense with Calendar Wednesday.

919. On April 19, 1911,[5] a Wednesday on which there was no business on the calendars in order under a call of committees, Mr. Oscar W. Underwood, of Alabama, moved to dispense with business in order under the rule.

The Speaker[2] said:

> It has been decided by my predecessor that under the conditions as they prevail here to-day there is no necessity for the motion where there is no business on the calendar.

920. On Wednesday, April 26, 1911,[6] Mr. Oscar W. Underwood, of Alabama, called attention to the absence on the calendars of any bills which would be in order on Wednesday, under the rule, and moved to dispense with proceedings in order for the day.

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[1] Second session Sixty-fifth Congress, Record, p. 1764.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixty-first Congress, Record, p. 209.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] First session Sixty-second Congress, Record, p. 395.

[6] First session Sixty-second Congress, Record, p. 630.

The Speaker[1] declined to entertain the motion and said:

It was held by Speaker Cannon that under the circumstances in which we find ourselves it did not require any motion to dispense with Calendar Wednesday. The Chair thinks it was a good ruling and a matter of common sense.

921. The call of committees having been completed on Wednesday, business otherwise in order on the day was considered.

On Wednesday, September 3, 1913,[2] business in order under the call of committees having been completed, Mr. Henry D. Flood, of Virginia, proposed the consideration of the bill (H. R. 7384) to authorize the payment of an indemnity to the Italian Government.

Mr. John J. Fitzgerald, of New York, raised the question of order that unless proceedings in order under the rule were dispensed with no business was in order on Wednesday except the call of committees.

The Speaker[1] held that the business in order under the call of committees having been completed, any business otherwise in order might be considered.

922. In calling the committees, they are called in the order in which they appear in the rules and not alphabetically.

On Wednesday, May 3, 1916,[3] during the call of committees under the rule, Mr. James R. Mann, of Illinois, raised the question of order that the committees were not being called in proper order.

The Speaker[1] sustained the point of order and directed that the committees be called in the rotation in which they were listed in the rules.

923. On August 9, 1911,[4] during the call of committees under the Calendar Wednesday rule, Mr. John H. Stephens, of Texas, objected to the order in which the committees were called by the Clerk.

The Speaker[1] said:

They are being called seriatim from the printed list, beginning where the call rested. They are called in accordance with the order in which committees are listed in the rules. The Committee on Accounts was the first committee called. That was where the call began, and it goes around until we get back to the Committee on Accounts, if there is sufficient time.

They are not called alphabetically. They are called in the regular order. The Clerk will call the next committee.

924. On call of committees under the rule, each committee is called twice before being passed.

On Wednesday, May 18, 1921,[5] while the committees were being called, the Clerk called the Committee on Banking and Currency and, there being no response,

[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixty-third Congress, Record, p. 4156.

[3] First session Sixty-fourth Congress, Record, p. 7319.

[4] First session Sixty-second Congress, Record, p. 3770.

[5] First session Sixty-seventh Congress, Record, p. 1539.

proceeded to call the next committee, when Mr. John N. Garner, of Texas, objected and said:

> Mr. Speaker, the Clerk has called the Committee on Banking and Currency but once. It has been customary heretofore to call each committee the second time. I therefore expect that the Committee on Banking and Currency will be called the second time.

The Speaker[1] sustained the point of order and directed the Clerk to Call the Committee on Banking and Currency a second time.

925. Prior to election of all the committees of the House the call of committees on Calendar Wednesday includes only those committees which have been elected.

On April 29, 1929,[2] during a discussion of the order of business, Mr. James O'Connor, of Louisiana, proposed to object to the consideration of the bill (H. R. 6) to amend an act to define and tax oleomargarine.

Thereupon, Mr. John Q. Tilson, of Connecticut, explained that only those committees of the House which had been elected would be called on Calendar Wednesday, and as only three had been elected, including the committee reporting the bill, it would be subject to consideration on the following Wednesday under the rule.

The Speaker[3] acquiesced.

926. A committee declining to proceed with the consideration of a bill when called on Wednesday, loses its right until again called in regular order.

On Wednesday, December 3, 1913,[4] the Speaker announced that the unfinished business was the joint resolution (S. J. Res. 5) for the appointment of a commission on vocational education, called up on the preceding Wednesday by the Committee on Education.

Mr. James R. Mann, of Illinois, made the point of order that on the Wednesday on which the bill was called up the committee declined to proceed with the consideration of the bill and permitted the call to pass to another committee.

The Speaker[5] sustained the point of order and held that the committee having declined to exercise its privilege and the Chair having directed a further call of the committees, the Committee on Education had lost its right and could not call up the bill for consideration until the committee was again reached in its regular order.

927. During a call of committees under the rule, a committee may not yield or exchange its order of rotation.

The House is not bound by private agreement between Members even when entered into on the floor in course of debate.

On Wednesday, June 13, 1917,[6] a call of the committees being in order, under the rule, Mr. William C. Adamson, of Georgia, from the Committee on Interstate and Foreign Commerce, when the Committee on Agriculture was called submitted that on a previous Wednesday he had entered into an agreement with Mr. Edwin Yates

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Seventy-first Congress, Record, p. 657.

[3] Nicholas Longworth, of Ohio, SpeaKer.

[4] Second session Sixty-third Congress, Record, p. 140.

[5] Champ Clark, of Missouri, Speaker.

[6] First session Sixty-fifth Congress, Journal, p. 424; Record, p. 3563.

Webb, of North Carolina, from the Committee on Agriculture, under which his committee, when called, yielded its place to the Committee on Agriculture with the understanding that the latter, when called, should yield to the Committee on Interstate and Foreign Commerce, and asked that his committee be called.

The Speaker [1] said:

You can not make a reservation of that kind. The gentleman from Georgia and the gentlemen from North Carolina and no other two gentlemen can make a private agreement to control the House. The Clerk will call the committees.

928. On call of committees, a bill may be called up only on authorization of the committee.

Authority having been given one Member to call up a bill, another may not be recognized for that purpose if objection is made.

On Wednesday, December 15, 1920,[2] when the Committee on Foreign Affairs was reached in the call of committees, Mr. Henry D. Flood, of Virginia, said:

Mr. Speaker, I do not see the chairman of the Committee on Foreign Affairs present, and as a member of that committee I call up a resolution reported by that committee and which the chairman was authorized to call up—House concurrent resolution 57—expressing the sympathy of the Congress of the United States with the aspirations of the Irish people for a government of its own choice.

Mr. James R. Mann, of Illinois, made the point of order that only the Member authorized for that purpose by the committee could call up the bill.

The Speaker [3] read a decision by Mr. Speaker Carlisle on a similar question and sustained the point of order.

929. On December 15, 1909,[4] it being Wednesday, and the call of committees being in progress, Mr. Charles H. Burke, of South Dakota, submitted a parliamentary inquiry as to whether authorization by the committee was necessary in order to call up a bill on Wednesday and whether bills were called up by the chairman only or whether they might be called up by any member of the committee.

The Speaker [5] said:

This must be done by authority of the committee. It need not necessarily be by the chairman, but any member of the committee might call up the bill if he were authorized by the committee. The rule refers to paragraph 4 of Rule XXIV, and the procedure under that paragraph is as stated by the Chair.

930. A bill called up by a committee under the Calendar Wednesday rule may be withdrawn before amendment.

On June 1, 1921,[6] it being Wednesday, the call resting with the Committee on Interstate and Foreign Commerce, Mr. Samuel E. Winslow, of Massachusetts, by direction of that committee, announced the withdrawal of the joint resolution (H. J. Res. 31) called up on the preceding Wednesday and undisposed of, for the purpose of calling up, instead, the bill (H. R. 6567) to amend the transportation act.

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[1] Champ Clark, of Missouri, Speaker.

[2] Third session Sixty-sixth Congress, Record, p. 396.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] Second session Sixty-first Congress, Record, p. 162.

[5] Joseph G. Cannon, of Illinois, Speaker.

[6] First session Sixty-seventh Congress, Record, p. 1983.

Mr. Joseph Walsh, of Massachusetts, raised a question of order.

The Speaker [1] held it in order to withdraw the bill and recognized Mr. Winslow to call up the second bill designated by the committee.

931. On Wednesday, August 10, 1921,[2] Mr. Julius Kahn, of California, from the Committee on Military Affairs, called up, under the rule, the bill (H. R. 7251) to authorize the Secretary of War to effect a change of title to railroad rights of way at Camp Henry Knox, Ky., and the House resolved into the Committee of the Whole on the state of the Union for the consideration of the bill. After some time the committee rose and reported having come to no resolution.

Whereupon Mr. Kahn announced the withdrawal of the bill by the Committee on Military Affairs for the purpose of calling up the bill (H. R. 1574) authorizing the exchange of sample arms with foreign nations.

Mr. Thomas L. Blanton made the point of order that the bill, having been called up and considered, was unfinished business and could not be withdrawn.

The Speaker [1] held that the bill could be withdrawn at any time before a decision thereon and on withdrawal resumed its place on the calendar in the same status occupied before being called up.

932. A privileged bill may not be called up for consideration under the rule on Wednesday.

On Wednesday, April 13, 1910,[3] the Committee on Public Lands having been reached in the call of committees, Mr. Frank W. Mondell, of Wyoming, from that committee, called up the bill (H. R. 13907) to provide for agricultural entries on coal lands.

Mr. William B. Craig, of Alabama, made the point of order that the bill was privileged and therefore ineligible for consideration on Wednesday.

The Speaker [4] ruled:

> The Chair ruled a week ago to-day upon a question that arose similar to the one that arises on the present bill. The following-named committees shall have leave to report at any time on the matters herein stated: The Committee on the Public Lands, for the forfeiture of land grants to railroad and other corporations, bills preventing speculation in the public lands, and bills for the reservation of the public lands for the benefit of actual and bona fide settlers. This bill, on its face, permits homesteads upon the public lands to bona fide and actual settlers for the surface, and it seems to the Chair that under the rule it is a privileged bill, which is therefore not in order to-day.

933. Tuesday, April 25, 1911,[5] Mr. William C. Houston, of Tennessee, from the Committee on the Census, presented the report of that committee on the bill (H. R. 2983) for the apportionment of Representatives in Congress among the several States under the Thirteenth Census, which, with the accompanying report, was referred to the Committee of the Whole House on the state of the Union and ordered to be printed.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixty-seventh Congress, Record, p. 4836.

[3] Second session Sixty-first Congress, Record, p. 4632.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] First session Sixty-second Congress, Record, p. 624.

Mr. James R. Mann, of Illinois, inquired whether it was proposed to call up the bill on the following day, which was Wednesday, there being no other bills on the calendar.

The Speaker [1] said:

This being a privileged bill, it would not be in order on Calendar Wednesday.

934. On August 9, 1911,[2] this being Wednesday, when the Committee on Printing was reached in the call of committees. Mr. David E. Finley, of South Carolina, from that committee, called up the concurrent resolution (H. Con. Res. 9) to print the hearings before the Employers' Liability and Workmen's Compensation Commission.

Mr. James R. Mann, of Illinois, raised the point of order that the bill, being privileged, was not in order on Wednesday.

The Speaker [1] sustained the point of order.

935. On June 18,[3] 1918, in discussing the order of business, Mr. Joshua W. Alexander, of Missouri, announced that the bills (H. R. 12099) prescribing charter rates and freight rates, and (H. R. 12100) to amend the United States Shipping Board act, would be called up on the following day, which was Wednesday.

Mr. William H. Stafford, of Wisconsin, raised the question of order that these bills, having been granted privileged status under special order, had thereby been rendered ineligible for consideration on Wednesday.

The Speaker [1] sustained the point of order.

936. The privilege of a bill is not affected by the method by which reported and delivery of a privileged bill to the Clerk does not thereby destroy its privilege so as to render it eligible for consideration under call of committees on Wednesday.

On December 10, 1919,[4] this being Wednesday, the Committee on Public Lands was called, and Mr. Nicholas J. Sinnott, of Oregon, by direction of the committee, called up the joint resolution (H. J. Res. 20) giving discharged soldiers preferred right of homestead entry.

Mr. Rollin B. Sanford, of New York, raised the question of order that the resolution was privileged and the committee by reporting it through delivery to the Clerk instead of from the floor could not thereby destroy its privilege and make it in order for consideration on Wednesday.

The Speaker,[5] through overruling the point of order on the ground that the pending bill was not originally a privileged bill, sustained the contention that a committee by reporting a bill as if unprivileged could not so render it eligible for consideration under the call of committees on Wednesday.

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[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixty-second Congress, Journal, p. 416; Record, p. 3767.

[3] Second session Sixty-fifth Congress, Record, p. 7986.

[4] Second session Sixty-sixth Congress, Journal, p. 32; Record, p. 366.

[5] Frederick H. Gillett, of Massachusetts, Speaker.

937. Bills reported from the District Committee are not so privileged as to prevent their being taken up under call of committees on Wednesday.

On Wednesday, February 15, 1922,[1] when the Committee on the District of Columbia was reached in the call of committees, Mr. Benjamin K. Focht, of Pennsylvania, from that committee, called up the bill (S. 2265) to regulate marine insurance in the District of Columbia.

This bill had been previously considered by the House on a day devoted to bills reported from the District Committee.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the bill could not be considered on Wednesday.

The Speaker[2] said:

So far as the Chair knows, this is a novel question, which has not been decided before either by the Speaker or by the House. It brings up for interpretation that clause of the rule which says that any bill may be called up on Calendar Wednesday excepting bills which are privileged under the rules. To hold that the Committee on the District of Columbia can not bring up a bill would be to hold that the bills of the District Committee are privileged. The Chair thinks that would mean that all bills reported by the Committee on the District of Columbia are prohibited from consideration on Calendar Wednesday, which would mean that the District of Columbia Committee might just as well not be called on Calendar Wednesday. There is, of course, force to the statement that Calendar Wednesday was meant for bills which were not privileged and therefore had no other opportunity, and that in that light District of Columbia bills having a certain day might be considered in that sense as privileged. But the words "privileged bills" have in our practice a certain meaning. They mean bills which are reported from the floor, and it seems to the Chair that he ought not to put an unusual interpretation on the words "privileged bills" by trying to imagine that the House, when the rule was adopted, meant to include something which is not ordinarily included in the words "bills that are privileged ander the rules." And while this particular bill has already been considered in the Committee of the Whole and thereby has acquired a certain status there, the Chair does not think that has made of it a privileged bill. Therefore the Chair thinks that the bills of the Committee on the District of Columbia, not being of that class which are generally considered privileged bills, can be called up on Calendar Wednesday. The Clerk will report the bill.

938. There is no priority as between House or Union Calendars bills on Wednesday, and the committee called may bring up bills from either calendar at will.

On Wednesday, December 15, 1909,[3] during a call of committees under the rule, Mr. Francis B. Harrison, of New York, as a parliamentary inquiry, asked if bills on the House Calendar had preference over bills on the Union Calendar under the Calendar Wednesday rule.

The Speaker[2] said:

There is nothing in the rule touching the matter of preference. The rule does not seem to prefer either the House or the Union Calendar, and the action of the House under the rules is governed by the committee on call, bringing itself within the rules. We have just considered two bills on the House Calendar. The gentleman from Illinois, chairman of the Committee on Interstate and Foreign Commerce, now calls up a bill upon the Union Calendar.

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[1] Second session Sixty-seventh Congress, Record, p. 2614.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Second session Sixty-first Congress, Record, p. 162.

939. When a bill on the Union Calendar is called up on Calendar Wednesday the House automatically resolves into the Committee of the Whole House on the state of the Union without motion from the floor.

On Wednesday, December 15, 1909,[1] the Committee on Interstate and Foreign Commerce was called, and Mr. James R. Mann, of Illinois, by direction of that committee, called up from the Union Calendar the bill (H. R. 12316) to provide for the government of the Canal Zone.

Whereupon, without suggestion from the floor, the Speaker[2] rendered the following decision:

The gentleman from Illinois, by direction of that committee, calls up House bill 12316, upon the Union Calendar. This bill is called up by direction of the Committee on Interstate and Foreign Commerce by the chairman of that committee. The part of the rule that governs the action of the House at this time is as follows:

"On a call of committees under this rule bills may be called up from either the House or the Union Calendar, excepting bills which are privileged under the rules; but bills called up from the Union Calendar shall be considered in Committee of the Whole House on the state of the Union."

So far as the Chair has recollection, whenever special orders, which are rules of the House for special occasions, have provided that the House should immediately resolve itself into the Committee of the Whole House on the state of the Union for the consideration of a bill, the invariable practice of the House has been that the Speaker should at once declare the House in committee without a vote of the House on the question. It seems to the Chair that the intent of the rule now in operation, as shown by its purpose and language, is that the House shall without vote be resolved into the Committee of the Whole for the consideration of the bill specified by the committee having the right at this time to call a bill up for consideration. If such were not the case, we would have a motion to resolve the House into the Committee of the Whole House on the state of the Union for the consideration of the bill specified, with the possibility of a roll call, thus consuming time. And under the precedents for the prompt transaction of business, the Chair, in construing this rule, will declare the House in Committee of the Whole House on the state of the Union for the consideration of the bill.

940. On August 16, 1911,[2] the Speaker announced that the day was Calendar Wednesday, and the unfinished business was the bill (S. 943) for the improvement of the Black Warrior River, called up from the Union Calendar on the preceding Wednesday by the Committee on Rivers and Harbors.

Mr. Stephen M. Sparkman, of Florida, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of this bill.

The Speaker[3] declined to entertain the motion on the ground that the bill, being a Union Calendar bill, the House resolved into the Committee of the Whole automatically under the rule.

941. On Wednesday, December 3, 1913,[4] when the Committee on Foreign Affairs was reached in the call of committees, Mr. Henry D. Flood, from that committee, called up the bill (S. 2318) authorizing the appointment of ministers to Paraguay and Uruguay.

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[1] Second session Sixty-first Congress, Record, p. 161.

[2] First session Sixty-second Congress, Record, p. 4004.

[3] Champ Clark, of Missouri, Speaker.

[4] Second session Sixty-third Congress, Record, p. 141.

The Speaker directed the Clerk to report the bill, when Mr. James R. Mann, of Illinois, made the point of order that the bill was on the Union Calendar.

The Speaker [1] sustained the point of order and announced that the House automatically resolved into the Committee of the Whole House on the state of the Union for the consideration of the bill.

942. On Wednesday, June 25, 1919,[2] the House was considering in the Committee of the Whole House on the state of the Union the bill (S. 1213) relating to vocational rehabilitation, called up by the Committee on Education.

The committee having risen in order to permit the presentation of the conference report on the District of Columbia appropriation bill, Mr. Simeon D. Fess, of Ohio, moved that the House again resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the pending bill.

The Speaker pro tempore [3] said:

It is not necessary for the gentleman from Ohio to make that motion. The committee automatically resolves itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill.

943. On rejection by the House of a recommendation by Committee of the Whole for peremptory disposition of a bill under consideration on Calendar Wednesday, the House automatically resolves into the committee for its further consideration.

A bill taken up for consideration under call of committees on Wednesday does not lose its place on the calendar.

On Wednesday, April 5, 1916,[4] the Committee of the Whole House on the state of the Union rose and the Chairman reported that the committee, having had under consideration the joint resolution (H. J. Res. 103) authorizing the collection of additional cotton statistics, had directed him to report the resolution back to the House with the recommendation that the enacting clause be stricken out.

The question on agreeing to the recommendation of the committee being taken, it was decided in the negative, yeas 128, nays 167.

Thereupon, Mr. Harvey Helm, of Kentucky, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the resolution.

Mr. James R. Mann, of Illinois, made the point of order that the motion was not in order.

The Speaker [1] said:

The Chair holds that the House automatically resolves itself into the Committee of the Whole House on the state of the Union for further consideration of this resolution.

In the opinion of the Chair, this bill has never been off the calendar. It was on the calendar on a previous Wednesday, and it was considered somewhat that day. That does not seem to have taken it off the calendar because it came up to-day. Now, if the consideration of it on the first Wednesday that it came up did not take it off the calendar, it is clear that the transactions here to-day do not take it off.

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[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixty-sixth Congress. Record. p. 1766.

[3] Philip P. Campbell, of Kansas, Speaker pro tempore.

[4] First session Sixty-fourth Congress, Record, p. 5551.

944. The call of committees under the Calendar Wednesday rule is differentiated from the call of committees during the regular morning hour, and each maintains its separate calendar.

A bill undisposed of on the Wednesday allotted to a committee remains the unfinished business until that committee is again called on Wednesday in its regular order.

On January 24, 1912,[1] a Calendar Wednesday, Mr. William C. Adamson, of Georgia, by direction of the Committee on Interstate and Foreign Commerce, proposed to call up the bill (S. 3024) to provide for reconstruction of a bridge across the Weymouth River.

Mr. Martin D. Foster, of Illinois, made the point of order that the Committee on Interstate and Foreign Commerce, having occupied the last two Wednesdays, could not call up further business until again reached in the call of committees.

Mr. Adamson took the position that the call of committees during the morning hour on the preceding day, under which the Committee of Interstate and Foreign Commerce had been reached, entitled that committee to proceed with the consideration of the pending bill.

The Speaker[2] ruled:

The Chair believes that if this was an ordinary call of committees the Committee on Interstate and Foreign Commerce would have a right to call up some business; but that committee has occupied two whole Calendar Wednesdays, and the rule says positively that it shall not occupy more than two days until the other committees have a chance. In the opinion of the Chair there is an important difference between the regular morning hour and Calendar Wednesday. While the other committees have been called under the regular call, they have not been called under Calendar Wednesday. The Chair believes a fair construction of the rule would give the other committees of the House priority to-day over the Committee on Interstate and Foreign Commerce; therefore the point of order is sustained.

945. In the interpretation of "Wednesday" in the Calendar Wednesday rule a portion of a day is considered one day.

On Wednesday, December 6, 1916,[3] the Speaker directed a call of the committees, and the Clerk called the Committee on Rivers and Harbors.

Mr. William C. Adamson, of Georgia, made the point of order that the call rested on the Committee on Interstate and Foreign Commerce, which had occupied only a portion of the second Wednesday to which it was entitled.

The Speaker[2] held that any fraction of a Wednesday, however small, was considered a full day, and the Committee on Interstate and Foreign Commerce having occupied one full day and a portion of another was considered to have consumed two Wednesdays and could not be again called until the remaining committees had been called in their turn.

946. The motion to grant a committee an additional Wednesday under the Calendar Wednesday rule is in order prior to the Wednesday on which the committee is called.

An agreement entered into by unanimous consent may be modified by unanimous consent at the pleasure of the House.

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[1] Second session Sixty-second Congress, Record, p. 1269.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Sixty-fourth Congress, Record, p. 52.

On January 26, 1916,[1] Mr. Edward Keating, of Colorado, offered the following resolution:

That it shall be in order to continue the consideration of H. R. 8234 on call of the Committee on Labor on Calendar Wednesday until said bill shall be fully disposed of before proceeding with the call to any other committee.

Mr. Pat Harrison, of Mississippi, made the point of order that the Committee on Labor was entitled to the following Wednesday, and a motion to extend the time allotted to it was not in order until the Wednesday to which it was entitled had been consumed.

Mr. Harrison further submitted that a unanimous-consent agreement already entered into extended the time for consideration of the pending bill and could not be abrogated.

The Speaker[2] said:

All the rules of the House are intended to expedite business and not retard it, and all the rulings by the Chair ought to be in harmony with that idea. Under certain circumstances the House makes a unanimous-consent agreement, but circumstances may change in 24 hours so that it wants to do something else. It would be tying our hands absolutely to say that you could not change a unanimous-consent agreement. It takes a two-thirds vote to make this extension. It could have been made just as well when the bill was first called up as it can be made now, or it could be made at any particular time the House saw fit. What has happened is that the Members of the House have evidently concluded in their own minds that they can not finish the bill today, and they wish it to be in order next Wednesday. Therefore a motion is made to settle the question now. The Chair thinks it is not premature, and that it might have been made on last Wednesday. The Chair overrules the point of order.

947. The question of consideration may be demanded against a bill called up under the rule on Wednesday.

On February 13, 1918,[3] when the Committee on the Library was reached under the Calendar Wednesday call, Mr. James L. Slayden, of Texas, from that committee, called up the joint resolution (H. J. Res. 70) authorizing- the erection of a statue of James Buchanan.

Mr. Joseph Walsh, of Massachusetts, rose to demand the question of consideration.

The Speaker[2] having recognized Mr. Walsh for that purpose, put the question, and the House decided to consider the resolution, yeas 213, nays 127.

948. Formerly the question of consideration was raised against a bill on the Union Calendar in the committee and not in the House.

On Wednesday, April 15, 1914,[4] during the call of the committees under the rule, Mr. John T. Watkins, of Louisiana, from the Committee on the Judiciary, called up the bill (H. R. 15578) to codify the laws relating to the judiciary, a bill on the Union Calendar.

Mr. James R. Mann, of Illinois, as a parliamentary inquiry, asked when it was in order to raise the question of consideration.

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[1] First session Sixty-fourth Congress, Record, p. 1608.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Sixty-fifth Congress, Record, p. 2080.

[4] Second session Sixty-third Congress, Journal, p. 1022; Record, p. 6766.

The Speaker pro tempore,[1] said:

The unfinished business having been disposed of and the Committee on Revision of Laws having the right to call up bills reported from that committee for consideration, and that committee having called up a bill on the Union Calendar for consideration, it is the opinion of the Chair that it is the duty of the Speaker, under the rules, paragraphs 4 and 7 of Rule XXIV, to declare that the House automatically resolves itself into committee of the Whole House on the state of the Union for the consideration of the bill and to call some one to preside in committee.

949. On Wednesday, May 3, 1916,[2] the Committee on Flood Control, when called, called up from the Union Calendar the bill (H. R. 14777) to provide for the control of floods of the Mississippi and Sacramento Rivers.

Mr. J. Hampton Moore, of Pennsylvania, demanded the question of consideration.

The Speaker[3] declined to recognize him for that purpose and called attention to former rulings holding that on Wednesday the question of consideration could be raised against Union Calendar bills only in the Committee of the Whole.

950. On Wednesday, September 3, 1919,[4] when the joint resolution (H. J. Res. 87), authorizing national banks to subscribe to the united way work campaign, was called up by the Committee on Banking and Currency, Mr. Finis J. Garrett, of Tennessee, proposed to raise the question of consideration.

The, Speaker[5] said:

The attention of the Chair has been called to a precedent which decides that on Calendar Wednesday when the House automatically resolves itself into committee on a bill the question of consideration must be raised in the committee. So the gentleman from Tennessee can raise the question of consideration as soon as the House resolves itself into the Committee of the Whole. The House automatically resolves itself into the Committee of the Whole House on the state of the Union.

951. The question of consideration is in order in Committee of the Whole on Wednesday only, but if reported to the House, the recommendation of the committee is then subject to approval or rejection, and, if rejected, the House automatically resolves into the committee for further consideration of the measure.

On Wednesday, April 22, 1914,[6] when the House resolved into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 15578) to codify the laws relating to the judiciary which had been called up by the Committee on the Judiciary, Mr. James R. Mann, of Illinois, raised the question of consideration.

Mr. James Hay, of Virginia, made the point of order that the question of consideration could not be demanded in the Committee of the Whole.

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[1] Joshua W. Alexander, of Missouri, Speaker pro tempore.

[2] First session Sixty-fourth Congress, Record, p. 7321.

[3] Champ Clark, of Missouri, Speaker.

[4] First session Sixty-sixth Congress, Record, p. 4811.

[5] Frederick H. Gillett, of Massachusetts, Speaker.

[6] Second session Sixty-third Congress, Record, p. 7094.

The Chairman [1] ruled:

The Chair would like to state, in the first place, that he believes that there ought to be some opportunity at some time for either the House or the committee to determine the question of consideration of any bill, and by a majority vote. The Chair can not agree that this rule is intended to enable the House to dispense with a part of Calendar Wednesday. As the Chair reads the rule and construes it, he is persuaded to believe that it means to dispense with the entire business of the day, or none. There are several reasons; among them there are several decisions of the Speakers of the House that there shall be no preference between House bills and Union Calendar bills upon the calendar on Wednesday. While it is admitted and has frequently been ruled that a majority vote on a House Calendar bill will prevent its consideration, and the argument is made which, if correct, would require a two-thirds vote to dispense with one that was on the Union Calendar, so there would be a distinction. Now, if this were an original proposition, the Chair is disposed to believe that he would have held that under Rule III the consideration ,could have been raised before the House resolved itself into the Committee of the Whole House. The Chair knows that question may be raised where a motion is made to go into the Committee ,of the Whole House to consider a bill. The rule reads this way:

"When any motion or proposition is made, the question, Will the House now consider it? will not be put, unless demanded by a Member."

It says "any motion or proposition." The Chair is inclined to believe that this was intended to cover cases of this sort. When a bill is called it is a proposition, it would seem to the Chair, to go into the Committee of the Whole to consider the bill, not a motion, because you automatically go into the Committee of the Whole House to consider a bill on the calendar, if on the Union Calendar, as this bill was. But the Chair is impressed with the belief that there ought to be some time when a majority of the House or the Committee of the Whole House can determine whether or not it will consider a bill. In view of the ruling of Speaker Cannon and Speaker pro tempore Mr. Alexander, who, in this very case, decided when the motion was made raising the question of consideration that it could not be raised at that time, I think the opportunity to raise the question should now be permitted. Therefore, the Chair overrules the point of order.

The question of consideration being submitted, was decided in the negative. Thereupon the committee rose, and the Chairman, having reported the bill back to the House with the recommendation that it be not considered, Mr. Charles L. Bartlett, of Georgia, raised a point of order against the report.

The Speaker [2] said:

There are several questions involved in this matter, and the Chair will try to straighten them all out.

Until the Calendar Wednesday rule was made it was the privilege of any Member of the House to raise the question of consideration on any bill, resolution, or proposition. Speaker Reed once said that the purpose of all rules was to expedite business and not retard it. That is the correct light in which to examine them.

The House has the right to do as it pleases about any bill, and should have a chance to express its opinion. If it does not want to consider it, it has a perfect right to say that it will not consider it. That is no abridgment of anybody's privilege. It is to maintain the integrity of the House. The gentleman from Kentucky, Mr. Sherley, has a very terse and luminous way of stating things, and on the 14th day of December, 1910, he delivered these remarks:

"Mr. Speaker, if the Chair will permit me, it seems to me that the surest way to determine every debatable proposition is by answering the question, What ruling gives the House the greatest freedom? Now, the purpose of Calendar Wednesday was not to guarantee that certain committees should have certain bills considered, but that they should have an opportunity to present

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[1] Joseph J. Russell, of Missouri, Chairman.

[2] Champ Clark, of Missouri, Speaker.

bills that they had reported, and then the House should have the right to say whether it would consider them or not"—

Now, until the Calendar Wednesday rule, as I said, was adopted, you could raise the question of consideration on any legislative proposition. Most of the men who have participated in this long debate here to-day—and the Speaker remained in the Chamber and heard every word—were here when this Calendar Wednesday rule was adopted, and we know precisely why it was adopted. In those same remarks the gentleman from Kentucky [Mr. Sherley] stated this:

"The abuse that Calendar Wednesday was meant to cure was the constant feeding into the House of matters that had privilege and prevented the calling of the calendar; but it was not meant, by making a call of the calendar peremptory on certain days, to compel the House necessarily to consider matters on the calendar, but simply to give the House opportunity to consider them."

The complaints that led to the adoption of Calendar Wednesday were that committees reported bills and never got a chance to call them up. The call of the committee has been a part of the House proceedings antedating any of us. But they fell into the habit of crowding privileged matters in here, sometimes on purpose and sometimes in the ordinary course of business, so that Members could not get their bills up, and therefore we established Calendar Wednesday. Nobody has any disposition to overthrow it. I know that the Chair has none.

The reading of that Calendar Wednesday rule is peculiar. It provides:

"On a call of committees under this rule bills may be called up from either the House or the Union Calendar, excepting bills which are privileged under the rules."

That last clause was put there to prevent any of the big committees having jurisdiction of appropriations, revenue bills, and so forth, from crowding in on Calendar Wednesday. They have to stand aside on Wednesday and let somebody else have the right of way. The rule provides further:

"But bills called up from the Union Calendar shall be considered in Committee of the Whole House on the state of the Union."

Now, I agree with Speaker Cannon and the temporary Speaker, Mr. Alexander. I do not believe that any other reasonable construction can be put upon that clause except that it meant an automatic going into Committee of the Whole House on the state of the Union; and the reason that was done was to prevent filibustering. I know that that is so, because I was here, and while I was not on the Committee on Rules, I participated in the establishment of that rule.

There must be some place, somewhere—there ought to be, at least—to raise the question of consideration; and failing to be able to raise the question of consideration in the House in the first instance on bills on the Union Calendar on Wednesday, it ought to be permitted to be raised in committee.

In the first place, the Chair sustains the ruling of Speaker Cannon and of temporary Speaker Alexander, and he sustains the contention that you may raise the question of consideration on Calendar Wednesday—on no other day—in the Committee of the Whole House on the state of the Union. On every other day you have the opportunity to raise it in the first instance in the House. The motion to go into the committee raises the question on every other day.

Secondly, the Chair thinks that in this case the motion ought to be put to the House, which is the greater body and the controlling body, as it takes 217 to make a quorum in the House, just as the House votes on the recommendation of the Committee of the Whole House on the state of the Union when the committee reports back a bill with the recommendation that it lie on the table, or with the recommendation that the bill do not pass, or with the recommendation that the enacting clause be stricken out, or that everything after the enacting clause be stricken out. The committee has the right to report any one of those recommendations.

Therefore the question is on agreeing to the recommendation of the Committee of the Whole House on the state of the Union.

The question is on agreeing to the recommendation of the Committee of the whole being put, the House declined to approve it, yeas 115, nays 167.

Whereupon, Mr. John T. Watkins, of Louisiana, made the point of order that the recommendation of the committee having been rejected, the House automatically resolved into the Committee of the Whole.

The Speaker sustained the point of order, and announced that the House resolved into the Committee of the Whole House on the state of the Union for the further consideration of the bill.

952. The modern practice is to raise the question of consideration on Calendar Wednesday in the House, as on other days, and if decided in the affirmative the House resolves automatically into the Committee of the Whole.

On May 9, 1928,[1] evidently by prearrangement, Mr. Charles R. Crisp, of Georgia, propounded a parliamentary inquiry as to the intention of the Speaker to follow the established practice of declining to recognize Members to raise the question of consideration in the House on Calendar Wednesday.

Mr. Crisp took the position that while it has been customary from the time of the adoption of the rule to restrict the question of consideration to the Committee of the Whole on Calendar Wednesday, it was not logical, and the practice should be changed to admit the question of consideration in the House on such days before resolving into the Committee of the Whole.

The Speaker,[2] in a carefully considered decision, held:

While not of extreme importance, the question raised is of considerable importance. The last time the question was raised in the House was on March 20 of this year, when the gentleman from Tennessee, Mr. Garrett, raised the question of consideration in the House. The present occupant of the chair, following the precedents, held that the proper place to raise the question of consideration was in the Committee. It was raised in the Committee, and then the question came up as to whether the Committee must at once report back to the House its decision on the question of consideration. The occupant of the chair at the time, the gentleman from Michigan, Mr. Hooper, held that it did. Therefore the question was ultimately determined by the House, which voted to consider the bill.

Now, it does seem perfectly apparent that on that occasion the House went through two practically useless motions; first, in going into Committee of the Whole; and then, second, raising the question of consideration and reporting back to the House what it had decided on the question of consideration, the House having ultimately to determine.

Now, the Chair, of course, is rather loath, under the rules, to overturn by his decision long and well established precedents; but numerous Speakers—at least one Speaker—expressed grave doubt some years ago as to whether we ought not to overrule this precedent, as to whether the question of consideration should be raised in the House or in the Committee; and Mr. Speaker Gillett said:

"The Chair is not disposed to express his opinion offhand without careful study of the question as to which would be the better practice; but the ruling has been that the question of consideration should be raised in the Committee, and not in the House; and although to raise the question of consideration in the Committee is an anomaly, the Chair would not feel disposed to overrule that without a very thorough study and consideration of the question."

The Chair has made careful investigation of that question, and has prepared a decision of some length, making quotations from the precedents, which, with the permission of the House, he will insert in the Record without reading. But the Chair is decidedly of the opinion that the former decision should be overruled. In every other case and at every other time in the case of

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[1] First session Seventieth Congress, Record, p. 8212.

[2] Nicholas Longworth, of Ohio, Speaker.

a Union Calendar bill the question is always raised in the House, and the reason announced by Mr. Speaker Clark, when he ruled that it ought to be raised in the Committee, was on account of the phraseology of the Calendar Wednesday rule, which provides that on Calendar Wednesday "bills called up from the Union Calendar shall be considered in the Committee of the Whole House on the state of the Union," without the necessity of a motion being made, but it has frequently happened that in the case of a Union Calendar bill the gentleman in charge may ask unanimous consent that it be considered in the House as in Committee of the Whole, which is, after all, an intervening motion.

So that the word "automatically" as used in the Cannon decision does not apply to that. Speaker Clark held that the words "bills called up from the Union Calendar shall be considered in the Committee of the Whole House on the state of the Union" meant that no intervening motion could be made; that the House must at once resolve itself into the Committee of the Whole House on the state of the Union. The Chair is inclined to think, though, that the logic of the situation is where the provision is that the House automatically resolves itself into the Committee of the Whole House on the state of the Union that that phraseology was put in merely to make it unnecessary to move that the House go into the Committee of the Whole. That is certainly in the direction of speeding up legislation, because on a motion, of course, the question could be put and a roll call had. But the present occupant of the chair does not think that would preclude the raising of the question of consideration in the House at the beginning. It must be raised in the House finally. Therefore, why should we go through the useless motion of going into the Committee of the Whole, have the question of consideration raised in the Committee, and then reported back to the House for its ultimate action? The Chair thinks the logic of the situation us all in favor of overruling the previous precedents, and, as the Chair has said, while he is not disposed as a general thing to overrule well-established precedents, he thinks that the necessity of the case justifies him in doing so now. So the present occupant of the chair will say that when the question is raised the next time he will hold that the question of consideration should be raised in the House and not in the Committee.

953. On January 27, 1932,[1] the Speaker[2] announced that the day was Calendar Wednesday and directed the Clerk to call the committees.

When the Committee on Interstate and Foreign Commerce was reached in the call, Mr. Robert Crosser, of Ohio, from that committee, called up the joint resolution (H. J. Res. 252) to authorize the Interstate Commerce Commission to make an investigation as to the possibility of establishing a 6-hour day for railway employees.

Mr. Thomas L. Blanton, of Texas, raised the question of consideration, and the question being taken, the House voted to consider the resolution.

The Speaker announced:

The House votes to consider the resolution. The House automatically resolves itself into the Committee of the Whole House on the state of the Union.

954. When a bill previously debated is called up for the first time on Calendar Wednesday, consideration proceeds as if there had been no previous debate.

On Wednesday, February 15, 1922,[3] when the Committee on the District of Columbia was reached in the call of committees, Mr. Benjamin Focht, of Pennsylvania, from that committee, called up the bill (S. 2265) to regulate marine insurance in the District of Columbia.

This bill had previously been considered on a Monday set apart for the consideration of District of Columbia business.

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[1] First session, Seventy-second Congress, Record, p. 2815.

[2] John N. Garner, of Texas, Speaker.

[3] Second session Sixty-seventh Congress, Record, p. 2614.

Mr. Joseph Walsh, of Massachusetts, raised several questions of order, among them one as to whether debate already had on the bill on the occasion of its former consideration would be considered in recognizing for debate under the Calendar Wednesday rule.

The Chairman [1] said:

The Chair is of opinion that this bill, having been called up under the Calendar Wednesday rule, it should be considered under that rule just as though there had been no previous debate upon the measure. The Chair, therefore, recognizes the gentleman from Pennsylvania for one hour.

955. The provision for two hours' debate and equal division of time under the Calendar Wednesday rule applies to Union Calendar bills only and not to House bills.

The Member calling up a House bill on Calendar Wednesday is recognized for one hour and may move the previous question, for the purpose of preventing debate or amendment, at any time.

On Wednesday, April 21, 1920,[2] the House having, by a two-thirds vote, determined to consider the bill (H. R. 13138) amending the antitrust act, a Union Calendar bill to which the two previous Wednesdays had been devoted, Mr. Otis Wingo, of Arkansas, demanded the regular order.

The regular order was the decision of the Speaker on a point of order raised by Mr. Wingo against the ordering of the previous question demanded on the passage of the bill by Mr. Edmund Platt, of New York, and pending at adjournment on the preceding Wednesday.

The Speaker [3] said:

The purpose of the Chair will be to decide the question, both in accord with what he thinks was the purpose of those who framed the rule, and also in accord with what he thinks would be for the advantage of the House in carrying out that purpose.

The original intention of the Calendar Wednesday rule was to force the consideration upon one day of the week of a certain class of business. Experience showed, however, that the rule was not accomplishing what was hoped and planned, and accordingly the rule was changed and the clause inserted which gives rise to the question before us to-day.

The rule reads—

"Not more than two hours of general debate shall be permitted on any measure called up on Calendar Wednesday, and all debate must be confined to the subject matter of the bill, the time to be equally divided between those for and against the bill."

The Chair is disposed to follow, in general, the line of reasoning made two weeks ago by the gentleman from Georgia, Mr. Crisp. The phrase—

"Not more than two hours of general debate shall be permitted"—

has some uncertainty, for although the phrase "general debate" is usually used as applying to debate in Committee of the Whole, where it is not confined to the subject of the bill, yet it is also used as to debate on a bill in the House, the initial debate covering the whole subject of the bill, and the Chair does not think that phrase alone determines the question.

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[1] Clifton N. McArthur, of Oregon, Chairman.

[2] Second session Sixty-sixth Congress, Record, p. 5946.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

Then the phrase—
"All debate must be confined to the subject matter of the bill"—
applies simply to debate in Committee of the Whole, because in the House without any such provision the debate must be confined to the subject matter of the bill. But although that phrase applies simply to the Committee of the Whole it does not necessarily follow that the whole sentence has the same application. Then comes the phrase—

"The time to be equally divided between those for and against the bill."

That might apply as well to bills on the House Calendar as to bills on the Union Calendar. But the main purpose of this clause was to expedite the business of the House. The Calendar Wednesday rule had fallen short of accomplishing the end for which it was originally aimed, that of giving to relatively unimportant bills one day in the week when they would be considered and removed from the calendar. By tactics which might be called filibustering the purpose of that rule had been evaded, and this provision was inserted to prevent those delaying tactics. So the Chair thinks the main purpose of adopting this rule was speed and expedition in the transaction of the business of the House on Calendar Wednesday.

That being so, it seems to the Chair that that purpose will be best furthered by holding that this clause applies to bills on the Union Calendar only and that when bills on the House Calendar are brought up on Calendar Wednesday the previous question can be ordered at any time. The only way in which that would at all controvert this rule would be that it might interfere with the phrase—
"the time to be equally divided between those for and against the bill"
—because the man who had the bill in charge might use five minutes and then move the previous question. He might not give to those opposed to the bill any opportunity for debate. But the Chair does not think that argument has much practical force, for it is the custom for the man in charge of a bill to recognize the equal claim to debate of those opposed, and it is very rare that in debate the time is not fairly divided. On this very bill, for instance, the gentleman having it in charge, after having used 10 minutes himself, yielded 10 minutes to a gentleman opposed to the bill. The Chair might suggest that this very bill somewhat illustrates the fact that this ruling would not interfere with fair play, but would further the main purpose of the rule and prevent filibustering and hasten action, because the Chair has more than a suspicion that the time desired in opposition was not really because of antagonism to the bill, but was aimed at prolonging the consideration of this bill, so as to occupy the Calendar Wednesday and prevent the consideration of other bills which might follow it. So this very case is an illustration of the way in which the purpose of Calendar Wednesday is sometimes being obstructed and the rule availed of for filibustering purposes.

Therefore the Chair thinks that it would best be carrying out the intention of those who framed this provision and expediting the business of the House to rule that the previous question can be ordered. That leaves it all in the control of the House, because if the House desires debate the previous question can be voted down. Therefore the Chair rules that the previous question, which was moved by the gentleman from New York, is in order.

He can move the previous question after one minute's debate if he so desires. He has the same power in this case as to moving the previous question that he would have at any time in the House.

Mr. Wingo having appealed, the House sustained the decision of the Chair, yeas 274, nays 15.

956. On February 1, 1928,[1] under the Calendar Wednesday rule, Mr. Louis T. McFadden, of Pennsylvania, by direction of the Committee on Banking and Currency, called up the bill (H. R. 6491) to amend an act to supplement existing laws against unlawful restraints and monopolies.

[1] First session Seventieth Congress, Journal, p. 1013; Record, p. 2332.

In response to an inquiry from Mr. McFadden, the Speaker[1] ruled that Mr. McFadden was entitled to recognition for one hour with right to move the previous question at any time.

Mr. Thomas L. Blanton, of Texas, took exception to the ruling and argued that under the rule time for debate should be equally divided between those for and against the bill, and those opposing the bill were also entitled to recognition for an hour, during which time amendments might be offered.

After debate, the Speaker ruled:

The Chair has before him an exact precedent on the question now at issue. On April 21, 1920, the same point was made by the gentleman from Arkansas, Mr. Wingo, as has been made by several gentlemen this morning, to wit, that the same rule of two hours' debate should apply to bills on the House Calendar as applies to bills on the Union Calendar. After some discussion Mr. Speaker Gillett made a very well considered ruling as to the philosophy of the Calendar Wednesday rule. The Chair will read one or two paragraphs of that decision. After discussing the philosophy of the rule and the necessity of preserving the integrity of Calendar Wednesday against what might be filibustering or otherwise to prevent consideration of a bill, Mr. Speaker Gillett said—

The Speaker read from the decision[2] referred to and continued:

The gentleman from Arkansas appealed from that decision, and the Chair was sustained by a vote of 274 to 15.

Under the circumstances the Chair is constrained to hold that the Calendar Wednesday rule as to two hours' debate applies only to Union Calendar bills, and not to bills on the House Calendar; and if the House desires to debate this question at any length, it can vote down the previous question whenever moved by the gentleman from Pennsylvania. But the Chair holds that so far as the bills on the House Calendar are concerned, they are governed by the same rules as prevail on any other day, and that the 2-hour-debate rule applies only to bills on the Union Calendar.

The Chair recognizes the gentleman from Pennsylvania for one hour.

957. On Wednesday, May 4, 1921,[3] during general debate on the bill (H. R. 2373) authorizing association of producers of agricultural products, in response to a parliamentary inquiry submitted by Mr. Fred H. Dominick, of South Carolina, the Speaker[4] held that a motion for the previous question was in order and, if agreed to by the House, precluded amendment.

958. A member of the committee calling up a bill on Calendar Wednesday is entitled to prior recognition to oppose it, but if no member of the committee opposes it any Member may be recognized in opposition.

On Wednesday, October 1, 1919,[5] the House was considering, in the Committee of the Whole House on the state of the Union, the bill (H. R. 7015) fixing rates for the Panama Canal, called up by the Committee on Interstate and Foreign Commerce.

The hour of general debate in favor of the bill having been consumed, Mr. Albert Johnson, of Washington, who was not a member of the Committee on Interstate and Foreign Commerce, asked recognition in opposition to the bill.

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] See sec. 8086 of this work.

[3] First session Sixty-seventh Congress, Record, p. 1037.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

[5] First session Sixty-sixth Congress, Record, p. 6216.

The Chairman [1] inquired:

Before recognizing the gentleman from Washington the Chair will ask if there is any member of the committee opposed to the bill?

Mr. John J. Esch, of Wisconsin, chairman of the Committee on Interstate and Foreign Commerce, replied:

I know of no member of the committee who is opposed to it.

The Chairman said:

Then the Chair will recognize the gentleman from Washington for one hour.

959. Debate on bills called up on Calendar Wednesday is limited to two hours, to be divided equally between those for and against the measure.

In recognizing for debate under the Calendar Wednesday rule, preference is given members of the committee reporting the bill; if no member of the committee claims the time in opposition, the Chair may recognize any Member for that half of the time.

The time allotted for debate under the Calendar Wednesday rule may not be extended in Committee of the Whole even by unanimous consent.

On May 14, 1930,[2] it being Calendar Wednesday, the bill (H. R. 2152) to promote the agriculture of the United States by expanding in the foreign field the service now rendered by the Department of Agriculture was being considered in the Committee of the Whole House on the state of the Union.

Mr. Gilbert N. Haugen, chairman of the committee reporting the bill, was recognized for an hour in favor of the bill, and, no member of the committee rising in opposition to the bill, the Chair recognized Mr. William R. Wood, of Indiana, for the remaining hour.

Thereupon, Mr. Marvin Jones, of Texas, asked to be recognized for 30 minutes.

The Chairman [3] declined recognition and said:

The Chair will state the parliamentary situation with regard to the division of time. The gentleman from Iowa, the chairman of the committee, was recognized for one hour in support of the bill. No member of the committee being opposed to the bill, the gentleman from Indiana was recognized for one hour in control of the time in opposition to the bill. The gentleman from Texas has asked recognition in his own right, but that can not be granted. The gentleman from Texas will have to get time from either the gentleman from Iowa or the gentleman from Indiana.

The rule is such that the time must be divided between the gentleman from Iowa, in favor of the bill, and no member of the committee having asked for time in opposition, one hour in opposition is controlled by the gentleman from Indiana, who asked for recognition.

Mr. Jones then desired to prefer a request for unanimous consent that he be allowed to proceed for 30 minutes.

The Chairman said:

The gentleman from Texas understands, of course, that unanimous consent can not be asked in committee to change the rules of the House.

The Chair will state that this is the Committee of the Whole and not the House, and the rule can not be changed by unanimous consent.

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[1] Frederick C. Hicks, of New York, Chairman.

[2] Second session Seventy-first Congress, Record, p. 9277.

[3] Mr. Scott Leavitt, of Montana, Chairman.

960. While formerly held that time unclaimed in opposition to a bill called up on Calendar Wednesday could be allotted to Members favoring the bill, the recent practice is to read the bill for amendment at the conclusion of the hour in favor of the bill, when no one rises in opposition.

On Wednesday, May 12, 1920,[1] the House was considering, in the Committee of the Whole House on the state of the Union, the bill (H. R. 10183) to authorize aids to navigation.

The hour allotted under the rule for debate in favor of the bill having been consumed, and no one rising in opposition, Mr. Nicholas Longworth, of Ohio, as a, parliamentary inquiry, asked if debate under such circumstances was not limited to one hour.

The Chairman[2] held that if no Member opposed to the bill claimed the hour in opposition the Clerk would be directed to read the bill for amendment.

961. On April 16, 1924,[3] this being Wednesday, when the Committee on Agriculture was reached in the call of committees, Mr. Gilbert N. Haugen, of Iowa, from that committee, called up the bill (H. R. 7111) to promote the sale of farm products abroad.

This bill being on the Union Calendar the House resolved into the Committee of the Whole House on the state of the Union to consider it, when Mr. John Q. Tilson, of Connecticut, as a parliamentary inquiry, asked if the hour in opposition to the bill was unclaimed by members of the committee would it be in order to recognize other Members in opposition.

The Chair held this to be the practice.

Thereupon Mr. Nicholas Longworth, of Ohio, submitted a further inquiry as to procedure in event the hour in opposition to the measure was unclaimed either by members of the committee or other Members of the House.

The Chairman[4] held that if no Member rose in opposition to the bill debate would be limited to the hour in favor of the proposition and no Member favoring the bill could be allotted any portion of the hour provided under the rule for debate against the bill.

962. On February 9, 1916,[5] during general debate on the bill (H. R. 54) providing pensions for widows and minor children, called up under the Calendar Wednesday rule by direction of the Committee on Pensions, the Chairman announced:

> The Chair calls attention to the new rule under which we operate on Calendar Wednesday, which provides that there shall be only two hours of general debate, to be divided equally between those in favor and those opposed to a measure. Now, the gentleman from Ohio, Mr. Key, is in favor of the measure, and has occupied 50 minutes. If there is any gentleman who is opposed to the bill, the Chair will recognize him for one hour at this time. If not, the Chair recognizes the gentleman from Tennessee.

Mr. Charles J. Linthicum, of Maryland, made the point of order that only Members opposed to the bill could be recognized.

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[1] Second session Sixty-sixth Congress, Record, p. 6943.

[2] Martin B. Madden, of Illinois, Chairman.

[3] First session Sixty-eighth Congress, Record, p. 6478.

[4] Carl R. Chindblom, of Illinois, Chairman.

[5] First session Sixty-fourth Congress, Record, p. 2356.

The Chairman [1] said.

The Chair called attention to the rule under which we are operating, and announced his readiness to recognize anyone opposed to the bill. No one then arose asking for recognition for purposes of debate, and therefore the Chair recognized the gentleman from Tennessee. The Chair thinks that the point of order is not well taken. Without going into refinements about it, it would arbitrarily limit the debate otherwise than as fixed by the rule itself. If a case should arise where no one was opposed to the bill and no one demanded recognition, then there could in fact be only one hour of debate. The Chair does not think that was the purpose or the spirit or the intention of the rule, and the Chair therefore overrules the point of order.

This opinion, however, has been overruled by the more recent decisions given above.

963. The order in which bills are called up on Calendar Wednesday is determined by the committee reporting them.

On Wednesday, May 7, 1930,[2] Mr. Gilbert N. Haugen, of Iowa, from the Committee on Agriculture, with which the call of the committees rested, called up the bill (H. R. 2152) to promote the agriculture of the United States by expanding in the foreign field the service now rendered by the Department of Agriculture.

Mr. Marvin Jones, of Texas, inquired as to the order in which bills were being called up for consideration.

Mr. Haugen replied:

I am calling up the bills according to the instructions given by the committee.

964. A specific method being provided for dispensing with proceedings in order on Calendar Wednesday, the Chairman of the Committee of the Whole has declined to entertain requests for unanimous consent to dispense with minor provisions of the rules.

On Wednesday, February 13, 1924,[3] the House having resolved into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 2249) extending the power of the War Finance Corporation, called up by the Committee on Banking and Currency, Mr. James F. Fulbright, of Missouri, submitted a request for unanimous consent to speak out of order.

The Chairman [4] held that it was not within the province of the Chair, under the rule, to put the request.

Debate having proceeded for some time, Mr. William N. Vaile, of Colorado, asked unanimous consent that time for debate, allotted under the rule, be extended five minutes.

The Chairman declined to entertain the request.

965. Business pending at adjournment on Wednesday, and on which the previous question has not been ordered, does not come up on the succeeding legislative day but goes over to the next Wednesday.

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[1] Finis J. Garrett, of Tennessee, Chairman.

[2] Second session Seventy-first Congress, Record, p. 8836.

[3] First session Sixty-eighth Congress, Record, p. 2387.

[4] Martin B. Madden, of Illinois, Chairman.

On Thursday, August 10, 1911,[1] the Speaker announced that the order of business was the call of committees under section 4 of Rule XXIV, and directed a call of the committees.

Mr. Stephen M. Sparkman, of Florida, raised the question of order that the unfinished business was the bill (S. 943) to improve navigation on the Black Warrior River, under consideration when the House adjourned on Wednesday the preceding day.

The Speaker[2] held that, under the rule, the bill referred to was not in order for consideration and could not be taken up until the next Wednesday.

966. When a Union Calendar bill comes up as the unfinished business on Calendar Wednesday the House automatically resolves into the Committee of the Whole and debate is resumed from the point at which it was discontinued on the previous Wednesday.

On January 25, 1928,[3] following the reading and approval of the minutes, the Speaker pro tempore[4] announced:

This is Calendar Wednesday. The unfinished business is the bill (H. R. 9024) to authorize the appointment of stenographers in the courts of the United States and to fix their duties and compensation. The House automatically resolves itself into the Committee of the Whole House on the state of the Union for the further consideration of this bill, and the gentleman from Michigan, Mr. Cramton, will resume the chair.

The Chairman,[5] having taken the chair, said:

When the committee rose on last Calendar Wednesday, there had been consumed by the gentleman from Missouri, Mr. Dyer, 27 minutes, and by the gentleman from Texas, Mr. Sumners, 15 minutes.

967. A bill under consideration on Calendar Wednesday, and on which the previous question had been ordered but not disposed of at adjournment, comes up as unfinished business on the next legislative day.

On February 10, 1914,[6] the Speaker[2] addressing the House during an interval, said:

On Wednesday last, after the previous question had been ordered on the Alaska railroad bill, the gentleman from Illinois, Mr. Mann, propounded a parliamentary inquiry to the Chair as to whether the previous question having been ordered, if the House should adjourn, the bill would come up as unfinished business on the next day or if it should go over until the next Calendar Wednesday. At that time the Chair gave the opinion offhand that it would not come up the next day, but would go over until the following Calendar Wednesday. The Chair is now absolutely certain that he was wrong in rendering that opinion, and he has his own somewhat elaborate decision rendered last year[7] to show that he was wrong. At that time the Chair gave as a controlling reason why it would come up on the next day that the House met and not go over until the following Calendar Wednesday, the analogy to be drawn from the decisions as to Friday business and Monday business.

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[1] First session Sixty-second Congress, Record, p. 3819.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Seventieth Congress, Record, p. 2023.

[4] John Q. Tilson, of Connecticut, Speaker pro tempore.

[5] Louis C. Cramton, of Michigan, Chairman.

[6] Second session Sixty-third Congress, Record, p. 3726.

[7] Third session Sixty-second Congress, Record, p. 1929.

Of course either ruling would have been sufficient originally, but the rulings ought to be harmonious and consistent, so that this Speaker and anyone else who follows him may have a system to follow, and the Chair now rules, notwithstanding the opinion he gave on Wednesday last, that under such circumstances where the previous question is ordered on a bill under consideration on Calendar Wednesday, if the House adjourn before the bill is disposed of, it will come up as unfinished business on the next legislative day and not go over until the following Calendar Wednesday.

968. On April 25, 1930,[1] it being Calendar Wednesday, the bill (H. R. 11781) authorizing the construction, repair, and preservation of certain public works on rivers and harbors was ordered to be engrossed and to be read a third time.

Mr. Harold Knutson, of Minnesota, demanded the reading of the engrossed bill.

The Speaker[2] announced that the bill obviously had not been engrossed and it would be necessary to lay the bill aside until the order for engrossment could be complied with.

In response to an inquiry from Mr. Bertrand H. Snell, of New York, the Speaker explained that the bill would come up as the unfinished business on the next legislative day.

969. On May 14, 1930,[3] Calendar Wednesday, the previous question was ordered on the bill (H. R. 2152) to promote the agriculture of the United States by expanding in the foreign field the service now rendered by the Department of Agriculture.

Whereupon, Mr. Charles R. Crisp, of Georgia, called attention to the fact that the following day had been set apart by special order for memorial exercises and inquired when the pending bill would again come up for consideration if the House adjourned without voting.

The Speaker[2] held that in view of the fact that Thursday had been designated by special order for eulogies, it was not a legislative day, and under the practice of the House the bill would come up on the next legislative day, which would be the following Friday.

970. When consideration of a bill postponed to a certain Wednesday is concluded on that Wednesday the remainder of the day is devoted to business in order under the rule.

A bill postponed to a certain Wednesday and undisposed of on that day becomes unfinished business to be considered when the committee calling it up is again called in its turn.

On Wednesday, February 13, 1918,[4] the Committee of the Whole House on the state of the Union rose and the Chairman reported that the committee, having had under consideration the bill (H. R. 5667) for the deportation of aliens, had come to no conclusion thereon.

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[1] Second session Seventy-first Congress, Record, p. 7774.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] Second session Seventy-first Congress, Record, p. 8964.

[4] Second session Sixty-fifth Congress, Record, p. 2079.

Whereupon Mr. Henry D. Flood, of Virginia, asked unanimous consent that the consideration of the bill be postponed for two weeks and be made the special ,order, superseding Calendar Wednesday for that day.

Pending this request, the Speaker,[1] in response to a parliamentary inquiry, held that if the bill were disposed of on that Wednesday the remainder of the day would be devoted to Calendar Wednesday business, and if the bill should not be disposed of before adjournment on that day it would become unfinished business, not to be called up on the following Wednesday, but to go over until the Committee on Immigration, calling it up, was again called in its turn.

971. The Calendar Wednesday rule does not apply during the last two weeks of the session.

Where the concluding day of the session fell on Wednesday the Speaker held the second Wednesday preceding that date to be within the two weeks prescribed by the rule.

On February 16, 1931,[2] Mr. William H. Stafford, of Wisconsin, submitted a parliamentary inquiry with reference to the date of the last Calendar Wednesday of the session.

Mr. John Q. Tilson, of Connecticut, in discussing the inquiry, said:

Mr. Speaker, I call the attention of the Chair to the fact there will be no more Calendar Wednesdays under the rules of the House. If the gentleman from Wisconsin will refresh his recollection of his arithmetic and remember that the Congress closes with March 3, he will see that this means 3 days in March and 11 days in February, which brings us back to Tuesday night, February 23.

The Speaker[3] held:

On the question of whether there is another Calendar Wednesday, the rule about Calendar Wednesday says—

"This rule shall not apply during the last two weeks of the session."

If the Chair construes that "two weeks" means legislative working days, there will be no Calendar Wednesday. If he construes it as merely two calendar weeks, there would be another Calendar Wednesday.

The Chair thinks in the line of past precedents—and he recalls making a ruling himself upon a somewhat similar matter—that it should be considered as legislative working days. So there will not be another Calendar Wednesday.

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[1] Champ Clark, of Missouri, Speaker.

[2] Third session Seventy-first Congress, Record, p. 5049.

[3] Nicholas Longworth, of Ohio, Speaker.

Chapter CCXIV.[1]

THE CONSENT CALENDAR.

972. Bills favorably reported on House or Union Calendars may be considered by consent on the first and third Mondays.

One objection prevents consideration when the bill is first called but when again called it is considered unless three object, in which event it is stricken from the calendar for the session.

Form and history of section 3 of Rule XIII.

Section 3 of Rule XIII provides—

After a bill has been favorably reported and shall be upon either the House or Union Calendar, any Member may file with the Clerk a notice that he desires such bill placed upon a special calendar to be known as the "Consent Calendar." On the first and third Mondays of each month, immediately after the reading of the Journal, the Speaker shall direct the Clerk to call the bills in numerical order which have been for three legislative days upon the "Consent Calendar." Should objection be made to the consideration of any bill so called, it shall be carried over on the calendar without prejudice to the next day when the "Consent Calendar" is again called, and if again objected to by three or more Members, it shall immediately be stricken from the calendar, and shall not thereafter during the same session of that Congress be placed again thereon: *Provided,* That no bill shall be called twice on the same legislative day.

The transaction of business by unanimous consent is a very ancient parliamentary expedient and was resorted to in the Continental Congress. Record of its use is found in the Journals of the House as early as the Twenty-second Congress[2] and, as the pressure of business crowded out unprivileged matters, it was used with increasing frequency until it came to occupy an important place in the unwritten procedure of the House.

[1] This chapter has no analogy with any previous chapter.

[2] First session Twenty-second Congress, Journal, p. 860.

It was first given a place in the order of business in the Sixty-first Congress,[1] when the resolution providing for adoption of rules was modified by an amendment offered from the floor establishing a "Calendar for Unanimous Consent." Under this rule recognition to submit the request which had previously been at the pleasure of the Speaker was provided for in the order in which filed on the calendar. This calendar was called on "suspension days" immediately after the reading of the Journal, and bills objected to by any Member were stricken from the calendar and could not be restored.

The rule was amended in the revision of 1911 [2] by slight changes in phraseology and by an additional provision that bills objected to might be restored to the calendar, but on a second objection should be stricken from the calendar and not returned. A proviso was also added prohibiting the second calling of a bill on the same legislative day.

A further amendment was agreed to January 18, 1924,[3] requiring the objection of three Members to strike a bill from the calendar, and otherwise altering the language of the section to conform to the provisions of the newly adopted rule [4] establishing a calendar for motions to discharge committees.

In the Sixty-ninth Congress [5] and again in the Seventy-second Congress,[6] the rule was successively modified by altering the provision for the days on which the calendar should be called, to meet contemporaneous modifications in the discharge rule, and on April 23, 1932,[7] was adopted in its present form.

973. Since the establishment of the Consent Calendar the Speaker declines recognition to submit requests for the consideration of bills by unanimous consent.

On Friday, January 7, 1910,[8] before the disposition of business on the Speaker's table, the Speaker,[9] addressing the House, said:

> The Chair desires to state to the House that on yesterday the gentleman from Pennsylvania, Mr. Dalzell, reported a joint resolution (H. J. Res. 103) from the Committee on Rules, which did not seem to be privileged under the rules, being a joint resolution proposing legislation, and asked unanimous consent for its consideration by the House at that time, to which there was objection. Rule 13, section 3, provides a method for consideration of bills, which includes joint resolutions, by unanimous consent, namely, by having them placed upon the calendar, and the Chair has heretofore construed that rule and announced that unanimous consent for consideration of bills out of their order must be as that rule provides, but it did not occur to the Chair, as the Chair presumes it did not occur to the gentleman from Pennsylvania or any other Member of the House, the practice of the House having so recently been different, that the rule which had already been construed applied in this case; and the Chair calls the attention of the House to it at this time and states that had it occurred to him at the time that it came within the rule

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[1] First session Sixty-first Congress, Record, p. 22.

[2] First session Sixty-second Congress, Record, pp. 14, 80.

[3] First session Sixty-eighth Congress, Record, p. 1143.

[4] Section 4 of Rule XXVII.

[5] First session, Sixty-ninth Congress, Record, pp. 383.

[6] First session, Seventy-second Congress, Record, p. 10, 83.

[7] First session, Seventy-second Congress, Record, p. 8807.

[8] Second session Sixty-first Congress, Record, p. 378.

[9] Joseph G. Cannon, of Illinois, Speaker.

referred to, the Chair would not have given recognition to the gentleman from Pennsylvania to ask for unanimous consent.

974. On Thursday, January 27, 1910,[1] immediately prior to adjournment, Mr. Richard W. Austin, of Tennessee, asked unanimous consent for the consideration of a resolution expressing regret at the disaster caused by floods in France and requesting the President to transmit the resolution to the people of France.

The Speaker pro tempore [2] said:

The Chair would say to the gentleman from Tennessee that in view of the rule announced by the Speaker with respect to requests for unanimous consent, the present occupant of the chair hesitates to recognize the gentleman for that purpose in respect to this resolution. This resolution would go on the calendar, and the Chair does not think it comes within the rule adopted by the House.

975. On Monday, February 7, 1910,[3] the Speaker,[4] in directing the Clerk to call the Calendar for Unanimous Consent, said:

The House will be in order. While the House is coming to order the Chair desires to say that the Unanimous Consent Calendar rule, in the opinion of the Chair, is a most important one. Under former rules of the House the Chair, as a Member of the House, visaed the requests for unanimous consent and exercised his privilege as a Member in not recognizing for unanimous consent where he felt assured that the matter ought not to be treated by unanimous consent. Now it is up to the House, and the Chair suggests, especially on this day, that the House should be in order and that each Member should pay attention. The Clerk will call the calendar.

976. On Monday, April 4, 1910,[5] during the call of the Calendar for Unanimous Consent, Mr. James R. Mann, of Illinois, requested unanimous consent for the consideration of a resolution conferring privileged status on the bill (H. R. 17536) creating an interstate commerce court.

The Speaker [4] said:

The Chair suggests to the gentleman, on consideration, that this is suspension day, and the Chair would prefer not to make a precedent of submitting unanimous consent on anything outside of the calendar.

977. On Monday, August 21, 1911,[6] while the Calendar for Unanimous Consent was being called, Mr. William B. Wilson, of Pennsylvania, sought recognition to submit a unanimous consent request for consideration of the resolution (H. Res. 90) to investigate the Taylor system of shop management.

The Speaker [7] said:

This is suspension day. If the gentleman wants to move to suspend the rules the Chair will entertain the motion, but the Chair can not entertain the request which the gentleman from Pennsylvania has just made.

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[1] Second session Sixty-first Congress, Record, p. 1135.

[2] John Dalzell, of Pennsylvania, Speaker pro tempore.

[3] Second session Sixty-first Congress, Record, p. 1543.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] Second session Sixty-first Congress, Record, p. 4240.

[6] First session Sixty-second Congress, Record, p. 4362.

[7] Champ Clark, of Missouri, Speaker.

978. The Speaker declines to submit requests for unanimous consent to address the House on Mondays reserved for the call of the Consent Calendar.

On January 31, 1930,[1] Mr. Ross A Collins, of Mississippi, addressed the Speaker and desired to submit a request for unanimous consent to speak for one hour on the following Monday after the reading of the Journal and the disposition of business on the Speaker's table.

The Speaker[2] declined to put the request and said:

The Chair would suggest to the gentleman that Monday is consent day, and there is a very long calendar. The Chair does not think he should recognize the gentleman for that purpose on Monday, but would on some other day.

The Chair thinks it is his duty to protect the Consent Calendar as far as possible. It is very long. The Chair will be glad to recognize the gentleman to ask consent for some other day—of course excepting Calendar Wednesday.

Subsequently, on the same day,[3] Mr. Frederick R. Lehlbach, of New Jersey, asked to be recognized to request unanimous consent to address the House on Monday on the subject of prohibition.

The Speaker again declined recognition and said:

The Chair will state to the gentleman that earlier in the day he declined to recognize gentlemen to make requests for time on consent Monday. The Chair will be glad to recognize the gentleman for any other day.

979. On Consent Calendar days the Speaker recognizes for the transaction of business by unanimous consent only in cases of emergency.

On January 5, 1931,[4] the Speaker recognized Mr. William R. Wood, of Indiana from the Committee on Appropriations, to prefer a request for unanimous consent to consider the joint resolution (H. J. Res. 447) for the relief of farmers in the drought, and storm stricken areas of the United States.

Mr. John N. Garner, of Texas, under reservation of the right to object, said:

As I understand it, the Speaker has recognized the gentleman from Indiana to submit this unanimous-consent request on this day, it being unanimous-consent day, and motions to suspend the rules being in order, on account of the emergency of the proposed legislation, and, as I understand, it is not the custom of the Chair to recognize gentlemen on this day to ask unanimous consent for consideration of legislation unless it is of an emergency character.

The Speaker[5] said:

The gentleman states the case correctly.

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[1] Second session Seventy-first Congress, Record, p. 2783.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] Record, p. 2792.

[4] Third session Seventy-first Congress, Record, p. 1405.

[5] Nicholas Longworth, of Ohio, Speaker.

980. The rule establishing the Consent Calendar relates to legislative propositions only, and does not apply to matters of routine and convenience purely formal in nature.

On Friday, December 17, 1909,[1] following the reading of the Journal, Mr. James R. Mann, of Illinois, asked unanimous consent for consideration of the following:

Resolved, That rooms 270 and 272 in the House Office Building be, and the same are hereby, assigned to the Committee on Industrial Arts and Expositions, as additional quarters.

Mr. Oscar W. Underwood, of Alabama, raised the question of order that the Speaker was not authorized to recognize Members to present such requests for unanimous consent.

The Speaker[2] directed the Clerk to read the third section of Rule XIII, and said:

The Chair would not go as far as the gentleman indicates, but, subject to the approval of the House, always, would be guided in his rulings so as to expedite the business and observe the intent of the rule. It is perfectly clear that clause 3 of Rule XIII, which has been read, refers to legislative propositions. The matter of the convenience of the House, the occupation of rooms by committees, the allowance of Members to be excused from committee service, as one was excused this morning, leaves of absence of Members, withdrawals of papers from the file rooms, opportunities to make personal explanations, extensions of time beyond the hour limit of debate, and practically numberless matters that come up in the ordinary transaction of business touching procedure seems to the Chair not to come, and could not from the reading of the rule come, within the intent of the rule. Such was not the intention of the House when it adopted that rule. This resolution has never been referred to any committee or reported by any committee and is not on any calendar. It is a matter for the convenience of the Members of the House, the convenience of the committees, and it seems to the Chair proper to recognize the gentleman from Illinois to ask unanimous consent. The Chair does not believe that it comes within the rule, and the Chair desires to assure the gentleman from Alabama that the Chair is in hearty sympathy with the thorough enforcement of this rule, not only for the reasons stated by the gentleman from Alabama, which are sound, but also, if it may be proper, for the Chair to so state for the protection of the Chair.

981. On January 13, 1910,[3] it being Thursday, Mr. David E. Finley, of South Carolina, submitted the following resolution, with a request that it be considered by unanimous consent:

Resolved, That exercises appropriate to the reception and acceptance from the State of South Carolina of the statute of John C. Calhoun, erected in Statuary Hall, in the Capital, be made the special order for Saturday, March 12, 1910.

Mr. Oscar W. Underwood, of Alabama, made the point of order that the request was not privileged.

The Speaker[2] said:

Mere matters of procedure and orders of business, whether in the form of resolutions or orders, the Chair has submitted to the House for its unanimous consent. A resolution could be framed, the Chair can imagine, as has happened in the past, covering matters of national policy, and so on, that probably ought to go to the Consent Calendar; but the Chair thinks a resolution of this kind, which might be framed as an order and not as a resolution, would not come within the practice so far under the rule and the construction thereof, which does not violate the spirit of the rule. Is there objection?

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[1] Second session Sixty-first Congress, Record, p. 224.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Second session Sixty-first Congress, Record, p. 594.

982. On Monday, February 7, 1910,[1] during the call of the Calendar for Unanimous Consent, Mr. Edgar D. Crumpacker, of Indiana, asked unanimous consent for consideration of an order setting aside a day for exercises appropriate to the acceptance of the statute of Gen. Lewis Wallace.

The Speaker,[2] upon consideration, said:

The Chair thinks this is of that class of special orders that are purely matters of ceremony and feels authorized in administering the rules to submit the request for unanimous consent. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the resolution.

983. While the Speaker has, on extraordinary occasions of emergency or routine, recognized Members to request unanimous consent for consideration of unprivileged matters, it is not the practice.

On Tuesday, May 23, 1911,[3] following the disposition of business on the Speaker's table, Mr. A. W. Lafferty, of Oregon, asked unanimous consent for the consideration of a resolution which he sent to the desk.

The Speaker,[4] after examining the resolution, said:

This is a resolution that will have to go through the basket under the rules of the House. Until a few months ago the unanimous-consent business rested entirely with the Speaker, the Chair will state to the gentleman from Oregon. Just exactly when it was changed I have forgotten, but a new rule was adopted by which there was established a Calendar for Unanimous Consent. At the beginning of the present session, in order to get things in working order, the Chair recognized a few people out of order, but the Chair announced about a week ago that he was going thereafter to observe the rule, and that all such resolutions would have to go through the basket.

984. On Monday, April 14, 1913,[5] it being the second Monday of the month, Mr. Richard W. Austin, of Tennessee, asked unanimous consent for the consideration of a resolution relating to recognition of the Chinese Government.

The Speaker [2] declined to entertain the request, and said:

As there are a great many new Members present, the Chair will take the privilege of stating that at the end of the Sixtieth Congress, according to his recollection, the House established a Calendar for Unanimous Consent. One day last summer there were several matters pressing here in which the Government was financially interested and on which, if they were not put through, the Government would lose money because of the deterioration of work. The Chair at that time stretched the rule sufficiently to let in four or five of those things. Then a distinguished Member of the House rose and protested against the proceedings and wanted to know if we were going back or relapsing into the bad situation which he alleged had existed heretofore. The Chair then announced that we were not going to do anything of the sort. Since then the Chair has been very careful about recognizing gentlemen to bring up matters that ought not to be brought up under that rule.

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[1] Second session Sixty-first Congress, Record, p. 1560.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] First session Sixty-second Congress, Record, p. 1496.

[4] Champ Clark, of Missouri, Speaker.

[5] First session Sixty-third Congress, Record, p. 173.

985. On Thursday, May 8, 1924,[1] before privileged business had been taken up, Mr. Royal C. Johnson, of South Dakota, asked unanimous consent to move to suspend the rules and pass the bill (H. R. 8869) for the relief of disabled ex-service men.

Mr. Finis J. Garrett, of Tennessee, having inquired as to the regularity of the procedure, the Speaker[2] said:

The Chair hesitated when the gentleman from South Dakota asked him this morning for recognition, and, as the gentleman from South Dakota knows, declined at first to grant that recognition. Then he asked whether the gentleman from Mississippi, who yesterday objected, was notified, and was willing to have this request made. The Speaker also conferred with the leader of the majority and the leader of the minority together upon the propriety of recognizing the gentleman to make the request, and after that conference the Chair felt justified in granting this unusual recognition.

986. The call of the Consent Calendar on days devoted to its consideration by the rules takes precedence of the motion to go into Committee of the Whole to consider revenue or appropriation bills.

On Monday, January 16, 1911,[3] during a call of the Unanimous Consent Calendar, Mr. John A. T. Hull, of Iowa, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the Army appropriation bill.

Mr. John J. Fitzgerald, of New York, raised a question of order.

The Speaker[4] said:

It is undeniable that the words of Rule XIII, section 3—"On days when it shall be in order to move to suspend the rules the Speaker shall, immediately after the approval of the Journal, direct the Clerk to call the bills upon the Calendar for Unanimous Consent"—prevent the Speaker entertaining the motion to go to the consideration of appropriation bills until the Unanimous Consent Calendar is considered.

987. On Monday, January 3, 1921,[5] a suspension day, Mr. James W. Good, of Iowa, as a parliamentary inquiry, asked if the motion to go into the Committee of the Whole House on the state of the Union to consider an appropriation bill was in order.

The Speaker[6] said:

The rule says that on this day the Chair shall order the Clerk to call the Unanimous Consent Calendar.

Thereupon, on motion of Mr. Good, by unanimous consent, the business in order under the rule was dispensed with for the day to permit the Speaker to entertain a motion to resolve into the Committee of the Whole to consider the sundry civil appropriation bill.

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[1] First session Sixty-eighth Congress, Record, p. 8139.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Third session Sixty-first Congress, Record, p. 965.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] Third session Sixty-sixth Congress, Record, p. 888.

[6] Frederick H. Gillett, of Massachusetts, Speaker.

988. A contested-election case may not supplant the call of the Consent Calendar.

On August 5, 1912,[1] it being the first Monday of the month, Mr. James A. Hamill, of New Jersey, by direction of the Committee on Elections No. 2, presented the report of that committee on the contested-election case of Gill *v.* Catlin.

Mr. James R. Mann, of Illinois, raised the question of order that the report could be received on suspension day only by unanimous consent.

The Speaker[2] said:

The Chair will pass on the point of order which the gentleman from Illinois has raised. The Chair does not think that anything is in order on unanimous consent, suspension, and committee discharge day except such things as will forward the business of the House.

989. On March 21, 1912,[3] while the Calendar for Unanimous Consent was being called, Mr. S. A. Roddenbery, of Georgia, said:

I rise to present a privileged resolution under the rules and the Constitution. I submit that under the rules of the House and the Constitution this resolution is in order, although there may be a special order, although it may be Unanimous Consent Calendar day, and although there may be other preferential motions.

The Speaker[2] said:

The rule says that immediately after reading the Journal the Unanimous Consent Calendar shall be called, and although the gentleman applied to the Speaker to be recognized to offer the privileged resolution, the Speaker refuses to allow that to be done.

An appeal by Mr. Roddenbery from the decision of the Chair was, on motion of Mr. John J. Fitzgerald, of New York, laid on the table.

990. While holding unfinished business on which the previous question was pending at adjournment on the previous day to be of equal privilege, the Speaker directed the call of the Consent Calendar.

On Monday, February 19,1923,[4] the Speaker announced:

To-day is suspension day, and the Clerk will report the first bill on the Unanimous Consent Calendar.

After the call of the Unanimous Consent Calendar had proceeded for some time, Mr. William B. Bankhead, of Alabama, as a parliamentary inquiry, called attention to the status of the bill (H. R. 14270), amending the Federal farm loan act, on which the previous question was pending at adjournment on the preceding Saturday, and read a decision from the House Manual holding that when the House adjourns before voting on a proposition on which the previous question is ordered the question comes up on the next day immediately after the reading of the Journal.

The Speaker[5] said:

That decision was rendered before the rule was adopted, which the Chair will now read:

"On days when it shall be in order to move to suspend the rules the Speaker shall, immediately after the approval of the Journal, direct the Clerk to call the bills which have been for three days upon the Calendar for Unanimous Consent."

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[1] Second session Sixty-second Congress, Record, p. 10225.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Sixty-second Congress, Record, p. 3739.

[4] Fourth session Sixty-seventh Congress, Journal, p. 235; Record, p. 4009.

[5] Frederick H. Gillett, of Massachusetts, Speaker.

The decision to which the gentleman refers was rendered before this rule was adopted which directed the Chair to immediately call the Calendar for Unanimous Consent. The Chair thinks that either of these things is in order, that both are privileged. The Clerk will call the next bill on the Calendar for Unanimous Consent.

991. Under the former rule recognition to suspend the rules on consent day does not preclude the call of the calendar later in the day.

On January 7, 1919,[1] a suspension day, Members were recognized to move suspension of the rules before the Consent Calendar was called.

Mr. William H. Stafford of Wisconsin, raised a question of order as to whether the call of the calendar would be in order after disposition of motions to suspend the rules.

The Speaker pro tempore [2] held:

This being the first Monday, it is in order to call the Unanimous Consent Calendar, and the fact that there have been some motions to suspend the rules entertained previously in nowise vitiates the right that the Unanimous Consent Calendar should be called if the House should remain in session. The Clerk will report the first bill.

992. In order to be called on consent day, a bill must appear on the printed calendar.

On Monday, December 20, 1909,[3] during the call of the Calendar for Unanimous Consent, the bill (H. R. 14565) extending time for construction of a bridge across the Mississippi River was called.

Mr. John J. Fitzgerald, of New York, made the point of order that the bill was not properly on the calendar.

The Speaker [4] said:

The House Calendar has heretofore been printed once in, three days.[5] In the House Calendar which was printed on Friday, the 17th of December, this bill does not appear. The question in the construction of the rule is as to what the calendar is. Is it a package of bills in the box or the printed list of the bills in the box? The Chair would be inclined to hold that the bill ought to be on the printed calendar; but as that calendar is published only once in three days, such a holding would in future, in the judgment of the Chair, make inconvenience. Therefore it seems to the Chair that the order to print the whole calendar should be so that we would have a daily calendar.

The Chair is inclined to hold, with a Unanimous Consent Calendar to be called twice a month and with a Calendar Wednesday, that the better practice would be that the bill should be upon the printed calendar for three days. Therefore the Chair sustains the point of order.

993. On February 7, 1910,[6] a first Monday, the Calendar for Unanimous Consent was being called, when a question arose as to the interpretation of the rule under which the call was proceeding.

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[1] Third session Sixty-fifth Congress, Record, p. 1120.

[2] Charles R. Crisp, of Georgia, Speaker pro tempore.

[3] Second session Sixty-first Congress, Journal, p. 869; Record, p. 265.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] The calendar is now printed daily.

[6] Second session Sixty-first Congress, Record, p, 1545.

In passing upon the question of order, the Speaker [1] ruled, incidentally:

The Chair, in construing this rule, has held that a bill on the Unanimous Consent Calendar shall be upon the printed calendar. Why? So that every Member of the House, by consulting the calendar, may be informed what bills are subject to unanimous consent upon that calendar.

994. To be eligible to consideration on the call of the Consent Calendar a bill must have been on the printed calendar three legislative days.

In counting the three days required by the Consent Calendar rule holidays or days on which the House is not in session are not construed as legislative days and are not included.

On February 1, 1929,[2] Mr. Edward E. Denison, of Illinois, submitted a parliamentary inquiry as to whether a day on which the House was not in session could be included in counting the three days which a bill must occupy on the calendar in order to be subject to call during consideration of the Consent Calendar.

The Speaker [3] replied:

The Chair thinks that the phrase "three days" means three legislative working days, that if the House is not in session it is not a legislative day, and that day, therefore, would not be included.

The present occupant of the chair has held that a holiday was not a legislative day. The Chair thinks that a day when the House is not in session is a holiday to that extent.

The attention of the Chair is called to the fact that the calendar is not printed on days when the House is not in session. Therefore it might be physically impossible to print in the calendar the bill which it is proposed to put on the Consent Calendar. Speaker Cannon ruled on December 20, 1909, that the better practice would be that bills should be upon the printed calendar for three days in order that they might be called on the Monday provided in the rule for the calling of the Consent Calendar. (Cannon's Precedents, sec. 992.) On February 7, 1910, Speaker Cannon again ruled as follows:

"The Chair in construing this rule has held that a bill on Unanimous Consent Calendar shall be upon the printed calendar. Why? So that every Member of the House by consulting the calendar may be informed what bills are subject to unanimous consent upon that calendar."

This decision may be found in Cannon's Precedents, section 993. That being the case the Chair thinks that the ruling with regard to holidays not counting as legislative days ought to be also applied to days when the House is not in session.

Mr. John N. Garner, of Texas, interposed.

Next Monday is consent day. Suppose the House adjourns on Thursday until Monday, a bill placed on the calendar on Wednesday could not be called up the following Monday.

The Speaker concluded his decision:

"In such a case the bill must have been put on the calendar on Tuesday so that it would be on the calendar for three legislative days. If the House should not be in session on Saturday, a bill to be considered on the Consent Calendar on Monday, must have been filed on the preceding Wednesday."

995. In counting the three days required under the consent rule, Sunday is not included.

On Thursday, March 21, 1912,[4] a day to which the legislative business of Monday, March 18, had been postponed by special order, Mr. Joseph J. Russell,

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] Second session Seventieth Congress, Journal, p. 399; Record, p. 2624.

[3] Nicholas Longworth, of Ohio, Speaker.

[4] Second session Sixty-second Congress, Record, pp. 3733, 3739.

of Missouri, submitted a parliamentary inquiry as to the method of computing the three days required by the rule for calling the Unanimous Consent Calendar.

The Speaker[1] decided:

The consideration of bills by unanimous consent is an extraordinary proceeding and ought to be conducted with great care. The rule in regard to the Unanimous Consent Calendar was established because Members thought they ought to have a right to have a bill taken up by unanimous consent, whether the Speaker was in favor of it or not. Speaker Cannon said that it was a great relief to the Speaker, and the Chair thoroughly agrees with him.

The philosophy of the three days' notice is that Members shall have three days' notice of the fact that unanimous consent is to be asked to take up certain bills. When the question was raised some time ago as to whether Sunday ought to be counted as part of the three-day period, the Chair ruled that in counting the three days Sunday was non dies, because there was no calendar printed on that day, and of course did not give a Member notice. The duty of Members is to be here every day and attend to the business of the House, and the Chair holds that if a bill has been on the calendar three days prior to to-day it is in order.

996. The House has decided that requests to have a bill "passed over without prejudice" may be entertained before debate has begun but not thereafter.

On Monday, February 7, 1910,[2] during the consideration of the Unanimous Consent Calendar, the resolution (H. J. Res. 110) to deepen Wilmington Harbor, California, was called.

After debate, Mr. James McLachlan, of California, asked that the bill be passed over without prejudice.

Mr. Joseph H. Gaines, of West Virginia, made the point of order that the request could not be entertained after debate on the bill had begun.

The Speaker[3] submitted to the House the question of order, which was read by the Clerk, as follows:

Shall it be in order, after there has been discussion as to a bill called on the Calendar for Unanimous Consent, for the Speaker to entertain a request for unanimous consent that the bill be passed over without prejudice?

The question being taken, it was decided in the negative, yeas 140, nays 147.

Thereupon the Speaker announced:

The Chair desires to state, by permission of the House, it would seem that the vote in the negative in this case would fairly well imply, when taken in connection with the debate, that it would be in order before there has been discussion as to a bill called on the Calendar for Unanimous Consent for the Speaker to entertain a request for unanimous consent that the bill be passed without prejudice, and the Chair would be so inclined to rule when the question should arise, if it did.

997. A bill on the Consent Calendar, "passed over without prejudice," goes to the foot of the calendar.

On Monday, October 17, 1921,[4] the Speaker announced that this was the day for consideration of bills by unanimous consent and directed the Clerk to call the calendar.

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-first Congress, Record, p. 1551.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] First, session Sixty-seventh Congress, Record, p. 6387.

The first bill on the calendar, the bill (H. R. 1578) to survey the Puyallup River, Washington, having been called, Mr. Albert Johnson, of Washington, asked unanimous consent that the bill be passed over without prejudice.

The Speaker [1] held that, if passed over, it should go to the foot of the calendar.

Mr. Johnson renewed his request, and the Speaker said:

Is there objection to the request of the gentleman from Washington that the bills be passed over without prejudice and go to the foot of the calendar?

There was no objection.

998. Objection to consideration of a bill on consent day comes too late after debate has begun.

On Monday, May 3, 1920,[2] the bill (H. R. 9825) providing for rights of way for public road purposes was called on the Calendar for Unanimous Consent.

There being no objection, the House proceeded to consider it, and debate was in progress when Mr. Niels Juul, of Illinois, objected to the consideration of the bill.

The Speaker [1] held that objection came too late after consideration had begun.

999. A Member having reserved the right to object to consideration of a bill called on the Consent Calendar, any Member may object under the reservation.

On Monday, May 2, 1910,[3] when the bill (H. R. 9961) authorizing the commissioning of ensigns at the Naval Academy was called on the Calendar for Unanimous Consent, Mr. William H. Stafford, of Wisconsin, reserved the right to object.

After debate, Mr. John J. Fitzgerald, of New York, objected to consideration of the bill.

Mr. Arthur L. Bates, of Pennsylvania, as a parliamentary inquiry, submitted that Mr. Fitzgerald had not reserved the right to object and therefore the objection came too late.

The Speaker [4] held that Mr. Stafford, having reserved the right to object, any Member could object under that reservation.

1000. A bill passed over without prejudice on a call of the Consent Calendar requires but one objection when next reached.

A bill objected to during consideration of the Consent Calendar, but retaining its place by unanimous consent, requires three objections when again called.

On January 26, 1928,[5] during a call of the Consent Calendar, the bill (H. R. 7203) to authorize the Secretary of the Interior to transfer the Okanogan project to the Okanogan irrigation district was reached.

Mr. Carl R. Chindblom, of Illinois, raised the question as to whether one or three objections were required to strike the bill from the calendar.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Sixty-sixth Congress, Record, p. 6471.

[3] First session Seventieth Congress, Record, p. 2085.

[4] Bertrand H. Snell, of New York, Speaker pro tempore.

[5] Second session Sixty-first Congress, Record, p. 5667.

The Speaker pro tempore [1] held that where a bill had been passed over without prejudice one objection was sufficient to displace it when next called. But where objection had been made and unanimous consent had been secured for the retention of its place on the calendar, three objections were required to strike it from the calendar when again reached.

1001. A bill, the second time stricken from the calendar on the objection of three Members, may by unanimous consent be permitted to retain its place on the calendar.

On Monday, June 2, 1924,[2] when the bill (H. R. 7698) to regulate interstate transportation of labor was reached on the Consent Calendar, objection was made by Messrs. Ernest R. Ackermann, of New Jersey; Thomas L. Blanton, of Texas; and Samuel E. Winslow, of Massachusetts; this being the second objection to its consideration.

Mr. J. Scott Wolff, of Missouri, asked unanimous consent that the bill be permitted to retain its place on the calendar.

Mr. James T. Begg, of Ohio, made the point of order that the request was not in order under the rule.

The Speaker pro tempore [3] ruled:

The Chair will read that portion of the rule which is applicable to this situation:

"Should objection be made to the consideration of any bill so called, it shall immediately be stricken from such calendar, but such bill may be restored to the calendar at the instance of the Member, and if again objected to by three or more Members it shall be immediately stricken from such calendar, and shall not thereafter be placed thereon."

In the opinion of the Chair this latter phrase would mean that it can not again be placed upon the calendar at the instance of the Member in the manner provided by the rule; that the Member has lost all rights to have his bill restored to the Consent Calendar under the rule. But gentlemen sitting in the House, having made objection to the consideration of a bill, and hearing a request made, after objection, for unanimous consent that a bill shall retain its place upon the calendar without prejudice, it seems to the Chair, are held to notice that that request is being made, and if they then wish to object it is their duty to prevent the granting of the unanimous consent request. In the opinion of the Chair their silence amounts to a waiver on the part of those who have made objection under the rule, if they do not raise objection to the unanimous consent request. Inasmuch as a request for unanimous consent for retention of a bill on the Consent Calendar after a second objection by three Members, though technically in order, is in contravention of the plain purpose and provision of the rule, it would seem to be the function of the chairman to himself object to such requests. When the objections were made those objections related to the present consideration of the bill. Afterwards a different request was made, that the bill might retain its place on the calendar, and to that request a single objection would have been ample.

1002. The striking of a bill from the calendar in one session does not preclude its restoration to the calendar in the next session.

On December 19, 1932,[4] the third Monday in the month, the House was considering business on the Consent Calendar under the rule, when the bill (H. R. 9921) to

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] First session Sixty-eighth Congress, Record, p. 10216.

[3] Carl R. Chindblom, of Illinois, Speaker pro tempore.

[4] Second session Seventy-second Congress, Record, p. 709.

require contractors on public-building projects to name their subcontractors, material men, and supply men, was called.

Mr. Charles A. Eaton, of Colorado, referred to the proceedings on the occasion of the call of the Consent Calendar as reported in the Congressional Record for June 6, 1932, in the course of which three Members had objected to the consideration of this bill and asked why it had not been stricken from the calendar.

The Speaker pro tempore [1] explained that it had been stricken from the calendar as required by the rule but that the call on June 6, had been in the first session of the Congress and the bill had been placed again on the calendar at the opening of the current session, and was in order to be called again for consideration.

1003. The requirement that a bill be three days on the Consent Calendar before being eligible to consideration does not apply when the bill, after being objected to, is again placed on the calendar.

On June 6, 1924,[2] the consideration of bills unobjected to on the Consent Calendar being in order, the bill (H. R. 26) to compensate the Chippewa Indians for certain lands, was called.

Mr. Finis J. Garrett, of Tennessee, raised the point of order that consideration of this bill had been objected to and the bill stricken from the calendar on June 4, and the three days required by the rule had not elapsed since its restoration to the calendar.

The Speaker [3] decided:

> The Chair thinks this is a close question, and there is support to decide in either direction, but, on the whole, the Chair thinks that the reason three days' notice was required was not so much to allow Members that time in which to know that a bill was coming up, but in order that they should have time in which to examine the different bills, make up their minds about them, and determine whether they wanted to object.
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> If any bill has been on the calendar, the Members have had three days in which to study it. Then the second time, the Chair is disposed to think, there is not the practical need of the same three days that there was before, because the Members have already had three days; they have studied the bills theoretically, know the bills, and know their minds about them. Therefore, the only notice that would be required the second time would simply be the notice to them to be present if they wished to object. That notice they get from the calendar in the morning. Theoretically we are all here every day, and a calendar is provided for us to see what the business is.
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> So the Chair concludes and will rule that it does not require the second time three days' notice but requires only one day's notice, and that the specific bill on which the question was raised is in order.

1004. Consideration of a bill on the Consent Calendar having been agreed to, a Senate bill of similar tenor may, by unanimous consent, be taken from the committee to which referred and considered in lieu thereof.

On February 21, 1910,[4] this being a third Monday, the bill (H. R. 20044) authorizing construction of a bridge across the Arkansas River was called on the Calendar for Unanimous Consent.

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[1] Clifton A. Woodrum, of Virginia, Speaker pro tempore.

[2] First session Sixty-eighth Congress, Record, p. 11086.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] Second session Sixty-first Congress, Record, p. 2172.

Mr. James R. Mann, of Illinois, asked unanimous consent to discharge the Committee on Interstate and Foreign Commerce from the consideration of the bill (S. 6191), identical with the House bill just called, and consider it in lieu thereof.

The Speaker [1] decided:

It seems that the bill H. R. 20044, on the Unanimous Consent Calendar, is a bridge bill, which has just been read. From the statement of the gentleman from Illinois it seems that the Senate bill, identical with the House bill, is in the Committee on Interstate and Foreign Commerce. The gentleman from Illinois asks unanimous consent to discharge the Committee on Interstate and Foreign Commerce from consideration of the Senate bill and substitute it for the House bill and consider the Senate bill. It seems to the Chair that that request comes within the spirit of the rule. Is there objection?

1005. Business under consideration on "consent day" and undisposed of at adjournment does not come up as unfinished business on the following legislative day but goes over to the next day when that class of business is again in order.

On Tuesday, October 7, 1919,[2] Mr. Patrick H. Kelley, of Michigan, as a parliamentary inquiry, asked when consideration of the motion to suspend the rules and pass the resolution (H. J. Res. 213) continuing certain allowances to officers of the Navy, which he had made and which was pending at adjournment on the preceding Monday, would again be in order.

The Speaker [3] ruled that it would come up on the next Monday on which that class of business was in order.

1006. The status of bills on the Consent Calendar is not affected by their consideration from another calendar and such bills may be called up for consideration from the Consent Calendar while pending as unfinished business in the House or Committee of the Whole.

On Monday, February 1, 1932,[4] during the call of the Consent Calendar, the Clerk called the bill (S. 1306) to provide for the incorporation of the District of Columbia Commission, George Washington Bicentennial.

Mr. Fiorello H. LaGuardia, of New York, made the point of order that the bill was improperly on the Consent Calendar for the reason that it had been taken up for consideration from the House Calendar and was pending in the House as unfinished business.

The Speaker pro tempore [5] overruled the point of order.

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] First session Sixty-sixth Congress, Record, p. 6513.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] First session Seventy-second Congress, Record, p. 3041.

[5] William B. Bankhead, of Alabama, Speaker pro tempore.

Chapter CCXV.[1]

THE CALENDAR OF MOTIONS TO DISCHARGE COMMITTEES.

1007. Any Member may file with the Clerk a motion to discharge a committee from the consideration of a public bill referred 30 days prior.

A motion may also be filed to discharge the Committee on Rules from the consideration of special orders referred to that committee seven days prior.

When a majority of the membership of the House has signed a motion it is entered on the Journal and referred to the Calendar of Motions to discharge committees.

After the motion has been on the calendar seven days any signer may call it up for consideration on second or fourth Mondays and the House proceeds to its consideration; if agreed to, any Member may move the immediate consideration of the bill which shall remain the unfinished business until disposed of.

If a motion to discharge the Committee on Rules prevails the House immediately votes on the adoption of the special order and if decided in the affirmative proceeds at once to its execution.

After any perfected motion to discharge has been acted on, no motion to discharge committees from the consideration of the same or any similar measure shall be considered that session and any others which may have been filed shall be stricken from the calendar.

Form and history of Section 4 of Rule XXVII.

Section 4 of Rule XXVII provides:

A Member may present to the Clerk a motion in writing to discharge a committee from the consideration of a public bill or resolution which has been referred to it 30 days prior thereto (but only one motion may be presented for each bill or resolution). Under this rule it shall also be in order for a Member to file a motion to discharge the Committee on Rules from further consideration of any resolution providing either a special order of business, or a special rule for the consideration of any public bill or resolution favorably reported by a standing committee, or a special rule for the consideration of a public bill or resolution which has remained in a standing committee 30 or more days without action: *Provided,* That said resolution from which it is moved to discharge the Committee on Rules has been referred to that committee at least seven days prior to the filing of the motion to discharge. The motion shall be placed in the custody of the Clerk, who shall arrange

[1] This chapter has no analogy with any previous chapter.

some convenient place for the signature of Members. A signature may be withdrawn by a Member in writing at any time before the motion is entered on the Journal. When a majority of the total membership of the House shall have signed the motion, it shall be entered on the Journal, printed with the signatures thereto in the Congressional Record, and referred to the Calendar of Motions to Discharge Committees.

On the second and fourth Mondays of each month, except during the last six days of any session of Congress, immediately after the approval of the Journal, any Member who has signed a motion to discharge which has been on the calendar at least seven days prior thereto, and seeks recognition, shall be recognized for the purpose of calling up the motion, and the House shall proceed to its consideration in the manner herein provided without intervening motion except one motion to adjourn. Recognition for the motions shall be in the order in which they have been entered on the Journal.

When any motion under this rule shall be called up, the bill or resolution shall be read by title only. After 20 minutes' debate, one-half in favor of the proposition and one-half in opposition thereto, the House shall proceed to vote on the motion to discharge. If the motion prevails to discharge the Committee on Rules from any resolution pending before the committee, the House shall immediately vote on the adoption of said resolution, the Speaker not entertaining any dilatory or other intervening motion except one motion to adjourn, and, if said resolution is adopted, then the House shall immediately proceed to its execution. If the motion prevails to discharge one of the standing committees of the House from any public bill or resolution pending before the committee, it shall then be in order for any Member who signed the motion to move that the House proceed to the immediate consideration of such bill or resolution (such motion not being debatable), and such motion is hereby made of high privilege; and if it shall be decided in the affirmative, the bill shall be immediately considered under the general rules of the House, and if unfinished before adjournment of the day on which it is called up it shall remain the unfinished business until it is fully disposed of. Should the House by vote decide against the immediate consideration of such bill or resolution, it shall be referred to its proper calendar and be entitled to the same rights and privileges that it would have had had the committee to which it was referred duly reported same to the House for its consideration: *Provided,* That when any perfected motion to discharge a committee from the consideration of any public bill or resolution has once been acted upon by the House it shall not be in order to entertain during the same session of Congress any other motion for the discharge from that committee of said measure, or from any other committee of any other bill or resolution substantially the same, relating in substance to or dealing with the same subject matter, or from the Committee on Rules of a resolution providing a special order of business for the consideration of any other such bill or resolution, in order that such action by the House on a motion to discharge shall be res adjudcata for the remainder of that session: *Provided further,* That if before any one motion to discharge a committee has been acted upon by the House there are on the Calendar of Motions to Discharge Committees other motions to discharge committees from the consideration of bills or resolutions substantially the same, relating in substance to or dealing with the same subject matter, after the House shall have acted on one motion to discharge, the remaining said motions shall be stricken from the Calendar on Motions to Discharge Committees and not acted on during the remainder of that session of Congress.

This rule was adopted in its present form on January 3, 1935.[1] Originally all reports of committees were presented in the House on motion of the chairman of the committee or any other Member,[2] and the motion to discharge a committee from consideration of a bill seems to have been in frequent use in the practice of the House, as in the Senate.[3]

However, at a very early date the use of the motion was discontinued in the House, and as early as the Fortieth Congress[4] was no longer privileged in the order of business.

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[1] First session Seventy-fourth Congress, Record, p. 20.

[2] Jefferson's Manual, Sections XXVII, XLIII.

[3] Standing Rules of the Senate, section 2, Rule XXVI.

[4] Second session Fortieth Congress, Globe, p. 229.

The first record of an attempt to reestablish the privilege of the motion appears in the Forty-eighth Congress,[1] when a proposition to make in order the motion to discharge a committee from the consideration of a bill not reported within 30 days after reference, was rejected, yeas 56, nays 115.

Discussion of the subject continued at varying intervals, and resolutions embodying similar proposals were introduced from Congress to Congress until, in 1910,[2] the Committee on Rules reported, in lieu of such resolutions referred to it, a rule which was adopted without amendment as section 4 of Rule XXVIII.

The rule provided for filing with the Clerk motions to discharge committees from consideration of bills at any time after reference. Such motions were placed on a special calendar, to be called up on suspension days after the call of the Calendar for Unanimous Consent, and on being seconded by tellers, when called up, were placed on their appropriate calendar as if reported by the committee having jurisdiction.

The rule proved singularly ineffective, and in the revision of 1911,[3] was amended by restricting the presentation of the motion to not less than 15 days after reference and requiring the reading of the bill by title only when the motion was called up to be seconded. It was also transferred from Rule XXVIII, becoming section 4 of Rule XXVII.

The rule in this form was employed to such advantage in obstructive tactics that in the second session of the Sixty-second Congress[4] it was further amended by making it the third order of business on suspension days to follow the call of the Calendar for Unanimous Consent and the disposition of motions to suspend the rules.

This change rendered the rule inoperative, and it remained practically nugatory until the Sixty-eighth Congress,[5] when the Committee on Rules reported a substitute which was agreed to after five days debate and under which a motion to discharge a committee when signed by 150 Members was entered on a special calendar and after seven days could be called up under privileged status. This rule was invoked but once[6] and while on that occasion the bill to which it was applied failed to reach final consideration, so much time was consumed, 16 roll calls being had in one day[7] during its consideration, that a further revision of the rule was affected in the succeeding Congress,[8] making it still more difficult of operation. Under this revision the requirement of 150 Members was increased to 218 Members, a majority of the House, and further safeguards were included which rendered the rule wholly unworkable. Only one attempt[9] was made to utilize it during the Sixty-ninth Congress and at the opening of the Seventy-second Congress[10] it was completely redrafted and adopted in its present form with the exception that 145 signatures were sufficient to secure

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[1] First session Forty-eighth Congress, Record, p. 964.

[2] Second session Sixty-first Congress, Record, p. 8439.

[3] First session Sixty-second Congress, Record, pp. 18, 80.

[4] Second session Sixty-second Congress, Record, p. 1685.

[5] First session Sixty-eighth Congress, Record, p. 1143.

[6] First session Sixty-eighth Congress, Record, p. 7874.

[7] Record, p. 7885.

[8] First session Sixty-ninth Congress, Record, p. 383.

[9] Second session Sixty-ninth Congress, Record, p. 2160.

[10] First session Seventy-second Congress, Record, pp. 10, 83.

reference to the Calendar. The amendment requiring a majority of the membership of the House was incorporated in the resolution providing for the adoption of the rules of the Seventy-fourth Congress.[1]

The problem of formulating a practical provision for the discharge of committees is one of the oldest and most perplexing in the history of the rules. From the drafting of the first form of the discharge rule in the Sixty-first Congress until the adoption of the present form of the rule, no measure passed the House under any of its various modifications. In the 31 intervening sessions of the House no bill reached the stage of practical consideration through discharge of a committee under any of its provisions, until the Seventy-second Congress when under the routine provided by the present form of the rule, five measures were entered on the calendar, one[2] of which eventually passed the House. The discharge of a committee under the rule for the first time in a quarter of a century of continuous experiment indicates an approach to an effective form of this long-considered rule.

1008. Motions to discharge committees are filed with the Clerk and are not presented from the floor.

Members sign motions to discharge committees at the Clerk's desk during the session of the House and not elsewhere.

Those filing motions to discharge committees may notify Members either from the floor or by letter.

Signatures to a motion to discharge committees are not made public until the requisite number have signed and the motion appears in the Journal and Record.

On February 23, 1932,[3] Mr. Robert S. Hall, of Mississippi, announced the filing of a motion to discharge the Committee on Rules from consideration of a resolution providing a special order for the consideration of a bill relating to drainage and irrigation districts reported by the Committee on Irrigation and Reclamation.

At the conclusion of his remarks, the Speaker[4] said:

> The Chair desires to make a statement to the House concerning petitions of this type. It is not necessary to present such petitions from the floor of the House of Representatives. Petitions of this character should be placed in the hands of the Clerk, and any Member desiring to sign such a petition must come to the Clerk's desk for the purpose of putting his signature to the petition.
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> Any Member desiring to file such a petition may file it with the Clerk and notify the Members as he may see proper, either from the floor or by written communications. These signatures can not be made public until the required number of Members have signed the petition.

1009. Motions to discharge committees are signed at the Clerk's desk during the session of the House and not otherwise.

On February 26, 1932,[5] Mr. John J. O'Connor, of New York, in presenting a parliamentary inquiry, announced that a member of his State delegation, Mr. Anthony J. Griffin, was confined in a hospital and unable to attend the sessions of the

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[1] First session Seventy-fourth Congress, Record, p. 20.

[2] First session Seventy-second Congress, Record, p. 12042, 12853.

[3] First session Seventy-second Congress, Record, p. 4513.

[4] John N. Garner, of Texas, Speaker.

[5] First session Seventy-second Congress, Record, p. 4783.

House, and asked that the Clerk or some other officer of the House be delegated to carry to him for his signature the motion then pending at the Clerk's desk to discharge the Committee on the Judiciary from the consideration of the joint resolution relating to the repeal of the eighteenth amendment to the Constitution.

The Speaker [1] declined and said:

Undoubtedly the rule contemplates that petitions shall be filed at the Clerk's desk and that Members shall sign the same at the desk. It could not possibly be considered that it might be used as a sort of round robin, to be sent from place to place for the purpose of securing signatures of Members. The petition can only be signed while the House is in session. Speaker Longworth so held in the first ruling made, touching this particular matter.

It seems to the Chair that is a consistent and sensible interpretation of the rule.

Mr. O'Connor pointed out that on a number of occasions the Speaker had himself or through deputies administered the oath of office outside the Hall of the House to Members detained by illness.

The Speaker explained:

That is when the House gives specific authority for that purpose. If the House desired to give specific authority that this petition be carried to the hospital for the purpose of securing a signature, of course the House by vote can authorize that to be done; but the Chair does not think he has authority, under the rules, to permit the petition to leave the Clerk's desk, since it can only be signed while the House is in session.

Mr. O'Connor inquired if the Speaker would recognize him to move that the House authorize some one to submit the motion to Mr. Griffin for his signature.

The Speaker said:

The Chair would rather not do that.

Mr. O'Connor then asked if he could be recognized to submit the matter in the form of a request for unanimous consent.

The Speaker assented, and Mr. O'Connor asked unanimous consent that the motion be placed in the hands of the Clerk at the close of the day's session to be taken by him, or one of his deputies or a designated Member of Congress, to the naval hospital in Washington to be presented to Mr. Griffin for his signature and thereafter returned to the office of the Clerk.

The Speaker said:

The Chair will state that when 145 signatures are attached to the petition, under the rule, it is referred immediately to the calendar and is printed in the Journal and the Record, and additional signatures are not necessary. The Chair does not know that they could be included in the petition.

Is there objection to the request of the gentleman from New York?

Objection being heard the request was denied.

1010. When called up under the rule a motion to discharge a committee is of the highest privilege and the Speaker declines to recognize for any matter not directly related to the proceedings.

Division of the time for debate under the rule is in accordance with the attitude of Members on the pending motion and party lines are not recognized.

Debate on the motion to discharge a committee is limited by the rule and the Speaker is constrained to deny recognition for request to extend the time.

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[1] John N. Garner, of Texas, Speaker.

On March 14, 1932,[1] Mr. J. Charles Linthicum, of Maryland, called up a motion[2] to discharge the Committee on the Judiciary under section 4 of Rule XXVII, from further consideration of the House joint resolution proposing an amendment to the eighteenth amendment to the Constitution.

Mr. Tilman B. Parks, of Arkansas, asked unanimous consent to extend his remarks in the Record by inserting a telegram received from the Young Men's Christian Association opposing the amendment.

The Speaker[3] declined recognition for the purpose and said:

This rule is specific, and the Chair will not recognize any Member of the House for any other proposition. The Clerk will report the resolution by title.

The Clerk having reported the resolution by title, Mr. Bertrand H. Snell, of New York, the minority leader, asked that the 10 minutes for debate allowed those opposing the motion under the rule be divided and one-half apportioned to the minority side of the House.

The Speaker said:

The rule is specific. The gentleman from Maryland making the motion is entitled to 10 minutes, and if the chairman of the Committee on the Judiciary is opposed to the motion, he would be entitled to 10 minutes. If he is of the same opinion as the gentleman from Maryland on this particular motion, the Chair would recognize some one on the committee who desired to oppose it. Whether the gentleman from Texas, the chairman of the Judiciary Committee, will yield is a question for the gentleman from Texas.

Mr. Fiorello H. LaGuardia, of New York, then asked recognition to prefer a request for unanimous consent to extend the time allowed under the rule an additional 10 minutes.

The Speaker said:

It seems to the Chair that it is his duty to protect the rule. Being a Member of the House, he will say himself that he would object to any additional debate, taking as much responsibility as he can in the premises.

Mr. Leonidas Dyer, of Missouri, the ranking minority member of the committee, proposed to be discharged by the pending motion, inquired if he was not entitled by virtue of his position on the committee, and his opposition to the motion, to control half the time on one side or the other.

The Speaker ruled in the negative and recognized Mr. Linthicum for 10 minutes under the rule.

Debate having been concluded and the vote being taken by yeas and nays, the yeas were 187, the nays 227, and the motion to discharge the Committee on the Judiciary from the consideration of the joint resolution was not agreed to.

1010a. The proponents of a motion to discharge a committee are entitled to open and close debate thereon.

On March 28,1932,[4] the House was considering under the discharge rule a motion to discharge the Committee on Rules from consideration of a resolution providing a

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[1] First session Seventy-second Congress, Record, p. 6000.

[2] Record, p. 5058.

[3] John N. Garner, of Texas, Speaker.

[4] First session Seventy-second Congress, Record, p. 6947.

special order for the consideration of the bill (H. R. 4650), proposing relief for drainage and irrigation districts.

In the course of the discussion, Mr. Robert S. Hall, of Mississippi, who had opened the debate, inquired as to the status of the time.

The Speaker [1] replied that of the 10 minutes allotted under the rule, respectively, to Mr. Hall in support of the motion and Mr. Edward W. Pou, of North Carolina, in opposition to the motion, each had 5 minutes remaining, and he would recognize Mr. Hall to consume the remainder of his time.

Mr. Hall submitted that as the proponent of the pending motion he was entitled to close the debate.

The Speaker acquiesced and recognized Mr. Pou for five minutes. At the conclusion of Mr. Pou's remarks Mr. Hall consumed the remainder of the time.

1011. On the second and fourth Mondays motions to discharge committees conforming to the requirements of the rule are privileged and take precedence of business merely privileged under the general rules of the House.

On March 10, 1932,[2] Mr. Charles R. Crisp, of Georgia, from the Committee on Ways and Means, by direction of that committee, moved 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. 10235), the revenue bill. Pending the motion, Mr. Crisp asked unanimous consent that general debate on the bill continue over Saturday, a period which included the second Monday of the month.

Mr. John J. O'Connor, of New York, under reservation of the right to object, inquired if agreement to the special order provided in the request would interfere with the consideration of motions to discharge committees in order under the rule on that day.

The Speaker [1] replied:

> The rule provides particularly that after the approval of the Journal it shall be in order to call up such a motion. There is no discretion in the hands of the House and the Chair so far as that rule is concerned. It is made for the purpose of forcing the consideration of a measure when the motion to discharge the committee has 145 signatures.

1012. A motion to discharge a committee having been agreed to, its proponents are entitled to prior recognition in debate and for allowable motions to expedite consideration.

Form of resolution providing for consideration of a bill taken from the Committee on Rules under motion to discharge and providing for consideration of a bill adversely reported by the committee to which it was referred.

On June 13, 1932,[3] Mr. Wright Patman, of Texas, one of the signers of a motion to discharge the Committee on Rules from consideration of the resolution (H. Res. 220) providing for the consideration of H. R. 7726, the adjusted service compensation bill, which had been duly signed by 145 Members and which appeared in the

[1] John N. Garner, of Texas, Speaker.

[2] First session Seventy-second Congress, Record, p. 5689.

[3] First session Seventy-second Congress, Record, p. 12844.

Journal and Record for June 4, 1932,[1] asked recognition to call up the motion for consideration.

The Speaker pro tempore [2] inquired:

Did the gentleman sign the petition?

Mr. Patman having answered in the affirmative, the Speaker pro tempore directed the Clerk to report the resolution by title. The Clerk read as follows:

House Resolution 220, a resolution to make the bill H. R. 7726, to provide for the immediate payment to veterans of the face value of their adjusted-service certificates, a special order of business.

Mr. Patman submitted that the resolution should be read in its entirety.

The Speaker pro tempore ruled:

No; just the title, under the rule; and the title has been read.

In response to an inquiry from Mr. Patman, the Speaker pro tempore explained:

With regard to the order of procedure, there will be 10 minutes debate in favor of the motion to discharge the committee and 10 minutes against it. A vote will then come on the motion to discharge the Rules Committee; and if that is favorable, a vote will immediately be had on the resolution from consideration of which the Rules Committee is discharged.

Debate having been exhausted, the question was taken on the pending motion. The yeas and nays were ordered, when the yeas were 226, the nays 175, and the motion to discharge the Committee on Rules from consideration of the resolution was agreed to.

The question recurring on the resolution, it was agreed to—yeas 225, nays 170, in the following form: [3]

Resolved. That upon the day succeeding the adoption of this resolution a special order be, and is hereby, created by the House of Representatives for the consideration of H. R. 7726, notwithstanding the adverse report on said bill. That on said day the Speaker shall recognize the Representative from the first district of Texas, Wright Patman, to call up H. R. 7726, a bill to provide for the immediate payment to veterans of the face value of their adjusted-service certificates, as a special order of business, and 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 said H. R. 7726. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the Member of the House requesting a rule for the considering of the said H. R. 7726 and a member of the House who is opposed to the said H. R. 7726, to be designated by the Speaker, 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 bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion except one motion to recommit. The special order shall be a continuing order until the bill is finally disposed of.

On motion of Mr. Thomas L. Blanton, of Texas, a motion to reconsider the vote by which the resolution was agreed to was laid on the table.

On Tuesday, June 14,[4] the succeeding day, Mr. Charles R. Crisp, of Georgia, from the Committee on Ways and Means, submitted a parliamentary inquiry as

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[1] Record, p. 10720.

[2] Henry T. Rainey, of Illinois, Speaker pro tempore.

[3] For a shorter form consult the proceedings for May 10, 1932; Record, p. 9924.

[4] Record, p. 12911.

to whether the chairman of that committee, which had been discharged from consideration of the bill, or proponents of the motion to discharge the committee, were entitled to prior recognition in debate and for motions to expedite the bill when it was taken up for consideration in the House under the special order.

The Speaker pro tempore held that under the procedure of the House, the proponents of the motion to discharge were entitled to prior recognition in debate and in the management of the bill in the House and in Committee of the Whole.

Thereupon, the Speaker pro tempore recognized Mr. Patman 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.

Debate on the bill continued through June 14 and 15 [1] when it was passed by the House, yeas 211, nays 176.

1013. A bill to amend the Volstead Act by providing for the sale and taxation of beer was held not to be a bill "substantially the same" within the purview of section 4 of Rule XXVII as a resolution proposing the repeal of the eighteenth amendment.

On May 23, 1932,[2] Mr. John J. O'Connor, of New York, proposed to call up, under the discharge rule, a motion [3] to discharge the Committee on Ways and Means from consideration of the bill (H. R. 10017) proposing to amend the Volstead Act by authorizing the sale and taxation of beer.

Mr. Thomas L. Blanton raised the question of order that the motion was not admissible for the reason that the rule forbade consideration of a motion to discharge a committee from consideration of a bill "substantially the same" as a bill previously considered under the rule at the same session. Mr. Blanton took the position that this provision was applicable as the bill referred to dealt with the same subject matter and was substantially similar in substance with the joint resolution (H. J. Res. 208) proposing the repeal of the eighteenth amendment previously considered under the rule.

The Speaker [4] overruled the point of order and said:

> In case a motion to discharge a committee from considering a bill authorizing 2 per cent beer was voted down, there could not be another motion for the purpose of voting on the question of 4 per cent beer, or even 1 per cent beer; but the question of amending the Constitution is one question and the question of legalizing beer is another. The House has passed on the question of a constitutional amendment but has not passed on the question of whether or not the House would provide a different definition of legalized beer.
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> The Chair overrules the point of order.

1014. The rule providing for motions to discharge committees does not authorize signature of such motions by proxy.

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[1] Record, p. 13054.

[2] First session Seventy-second Congress, p. 10950.

[3] Record, p. 10242.

[4] John N. Garner, of Texas, Speaker.

There is no provision in the rules authorizing Members to vote by proxy.

On March 5, 1930,[1] Mr. Luther A. Johnson, of Texas, rising to a parliamentary inquiry, referred to a motion in writing on the Clerk's table, to discharge the Committee on Ways and Means from the consideration of the bill (H. R. 7825) to amend the World War veterans' act of 1924.

He explained that a colleague who was absent on account of illness desired to sign the motion and inquired if it would be in order for Members thus unavoidably absent to authorize the indorsement of their signatures to the motion by proxy.

The Speaker[2] replied:

Since the gentleman from Texas, Mr. Johnson, asked the Chair that question informally yesterday, the Chair has examined the question and feels very clear about how the rule should be construed.

Paragraph 4 of Rule XXVII relating to this subject reads as follows:

"A Member may present to the Clerk a motion in writing to instruct a committee to report within 15 days a public bill or resolution which has been referred to it 30 days prior thereto (but only one motion may be presented for each bill or resolution). The motion shall be placed in the custody of the Clerk, who shall arrange some convenient place for the signature of Members. A signature may be withdrawn by a Member in writing at any time before the motion is entered on the Journal. When a majority of the membership of the House shall have signed the motion it shall be entered on the Journal, printed with the signatures thereto in the Congressional Record, and referred to the Calendar of Motions to instruct committees."

It will be observed that the word "sign" is used. No provision whatever is made for any such thing as signing by proxy or by an agency of any sort. While it is true that in some cans Members are authorized to vote while absent, in committee proceedings, the Chair thinks that is purely a matter of courtesy with the committee. It is not a question of the rules of the House at all. There is no rule that the Chair knows of in the House of Representatives for any sort of proxy. No man can transfer his vote or permit another Member to vote for him, as I believe is the rule in the French Chamber of Deputies. A Member must vote in person.

There being no provision in the rule for anything else, the Chair is very clear that no Member can delegate to another the right to sign such a petition as this.

1015. A motion to discharge a committee from the consideration of a bill applies to the bill as referred to the committee and not as it may have been amended in the committee.

The House has no information relative to proceedings of a committee not officially reported by direction of the committee.

On February 25, 1932,[3] Mr. Carl G. Bachmann, of West Virginia, rising to submit a parliamentary inquiry, called attention to a motion,[4] then pending in the custody of the Clerk, for the discharge of the Committee on the Judiciary from further consideration of the joint resolution (H. J. 208) proposing an amendment to the eighteenth amendment to the Constitution. Mr. Bachmann explained that the

[1] Second session Seventy-first Congress, Record, p. 4829.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] First session Seventy-second Congress, Record, p. 4705.

[4] This motion with the required signatures appears at the close of the proceedings in both the Record and Journal for March 1, 1932; Record, p. 5058.

original resolution had been amended by the committee and in its modified form had been laid on the table in the committee, and asked which form of the resolution was affected by the motion to discharge and whether the original resolution as referred to the committee or the amended resolution as tabled by the committee would be taken up for consideration in the House if the committee was discharged.

The Speaker [1] ruled:

It is very plain under the rule that the motion to discharge, if agreed to, would bring out the joint resolution as originally introduced. The House has no knowledge of the statements made by the gentleman from West Virginia as to what happened in the Committee on the Judiciary. The only knowledge that the House has is that House Joint Resolution 208 was introduced and referred to the Committee on the Judiciary. Whatever petition is signed to bring the joint resolution out under the rule would have to be a petition to bring out the original resolution as sent to the Committee on the Judiciary.

1016. The House (overruling the Speaker) held the motion discharging a committee from the consideration of a bill to be of higher privilege on suspension day than the motion to resolve into Committee of the Whole for the consideration of revenue or appropriation bills.

On Monday, January 16, 1911,[2] a suspension day under the current rule, Mr. John A. T. Hull, of Iowa, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the Army appropriation bill.

Mr. John J. Fitzgerald, of New York, offered, as preferential, a motion to discharge the Committee on Ways and Means from the further consideration of the bill (H. R. 19784) to suspend the collection of duties on meats.

The Speaker [3] ruled that the motion to go into Committee of the Whole to consider an appropriation bill took precedence of the motion to discharge a committee.

On an appeal by Mr. Fitzgerald, the House, by a vote of yeas 126, nays 146, declined to sustain the decision of the Chair.

1017. On December 18, 1922,[4] it being a third Monday, Mr. Patrick H. Kelley, of Michigan, moved that the House resolve into Committee of the Whole House on the state of the Union to consider the naval appropriation bill.

Pending which, Mr. Carl Hayden, of Arizona, asked recognition to call up from the Calendar of Motions to Discharge Committees, then in effect, a motion to discharge the Committee on Interstate and Foreign Commerce from consideration of the bill (H. R. 263) amending the act to regulate commerce.

Mr. William H. Stafford, of Wisconsin, made the point of order that the motion to resolve into Committee of the Whole to consider appropriation or revenue bills took precedence.

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[1] John N. Garner, of Texas, Speaker.

[2] Third session Sixty-first Congress, Record, p. 965.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] Fourth session Sixty-seventh Congress, Record, p. 641.

The Speaker[1] held that, under the rule, the motion to discharge took priority on suspension days, and recognized Mr. Hayden to call up the motion.

1018. The motion to discharge a committee has been held to take precedence of a motion to suspend the rules.

Recognition to call up motions from the Discharge Calendar is granted in the order in which entered on the calendar.

On Monday, December 19, 1910,[2] a day on which the calling up of motions from the Discharge Calendar and motions to suspend the rules were respectively in order in the rotation named, Mr. Charles E. Fuller, of Illinois, by direction of the Committee on Invalid Pensions, moved to suspend the rules and pass the bill (H. R. 29346) granting pensions to Civil War veterans.

Pending this motion, Mr. John J. Fitzgerald, of New York, proposed to call up from the Calendar of Motions to Discharge Committees a motion to discharge the Committee on Ways and Means from consideration of the bill (H. R. 19784) to suspend duties on meats, which motion was No. 19 on the calendar.

Thereupon Mr. James R. Mann, of Illinois, claimed the right to call up from the Discharge Calendar the motion to discharge the Committee on Post Offices and Post Roads from the further consideration of the bill (H. R. 21321) to codify the postal laws of the United States, which motion was No. 1 on the calendar.

The Speaker[3] ruled:

This is a new rule. The gentleman from Illinois was recognized by the Chair to suspend the rules, a motion which ordinarily would be in order to-day over any other motion; but even after the bill referred to in the motion to suspend has been read, it seems to the Chair a motion to discharge the committee would take precedence under the terms of the rule. So that at this stage, it seems to the Chair, in construing this new rule, that the motion called up by the gentleman from New York would be in order. He seems, however, to be superseded as to that motion because the gentleman from Illinois calls up the first bill on the calendar. And if he insists upon that, it will take precedence of the motion of the gentleman from New York and also of the motion of the gentleman from Illinois. The Clerk will report the bill called up by the gentleman from Illinois.

1019. The time required after reference to calendar before motion to discharge may be presented does not begin to run until committee is appointed and organized.

On Monday, August 7, 1911,[4] it being suspension day, Mr. Adolph J. Sabath, of Illinois, proposed to call up from the Calendar of Motions to Discharge Committees a motion to discharge the Committee on Immigration and Naturalization from consideration of the bill (H. R. 1343) to amend the immigration act.

Mr. William F. Murray, of Massachusetts, made the point of order that the bill had not been on the calendar the required number of days when the motion was entered.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Third session Sixty-first Congress, Record, p. 498.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] First session Sixty-second Congress, Record, p. 3710.

The Speaker [1] said:

It is the opinion of the Chair that a bill must have been referred to a committee for 15 days before it would be in order to move to discharge said committee from consideration of said bill. The committees were elected by the House on the 11th day of April, and 11 days plus 15 days, to wit, the 26th of April, would be the earliest day on which said motion could be entered, for in computing the time you can not include both days. This motion was placed on the calendar on April 19. Speaker Cannon held—on May 3, 1909, Sixty-first Congress, first session, page 1689—that until committees were appointed bills and resolutions that had been introduced in the House were not before these committees, and it was not privileged to move to discharge a committee on a resolution of inquiry 7 days after the introduction of such a resolution, as provided for by Rule XXII, clause 5. This discharge rule provides that it shall be in order to move to discharge a committee from further consideration of a bill referred to said committee 15 days prior to the motion. The intention of the rule is to allow the committee 15 days to consider the bill. This rule is a stringent one, and to discharge a committee under it is a reflection on the committee for tardiness of action. To say that the 15 days' notice should begin to run before a committee is in existence would work gross injustice upon such committee. This motion was placed on the Discharge Calendar 8 days after the organization of the Committee on Immigration and Naturalization, and, in the opinion of the Chair, was prematurely placed thereon. Therefore, the Chair is compelled to sustain the point of order.

1019a. Bills taken up for consideration from the discharge calendar are not subject to the prohibition provided by section 2 of Rule XXI interdicting consideration of appropriations not reported by the Committee on Appropriations.

Bills called up under motions to discharge committees from their further consideration are read by title only.

On March 12, 1934,[2] Mr. Wright Patman, of Texas, under section 4 of Rule XXVII, moved to discharge the Committee on Ways and Means from the further consideration of the bill (H.R. 1) to provide for controlled expansion of the currency and the immediate payment to veterans of the face value of their adjusted-service certificates.

Pending the motion, Mr. Blanton demanded the reading of the bill in full. The Speaker [3] called attention to the provision of the rule requiring that bills so called up be read by title only. Whereupon, on motion of Mr. Blanton, by unanimous consent, the bill was ordered printed in full in the Record.

The question being taken on the pending motion, it was decided in the affirmative, yeas 313, nays 104, and the motion was agreed to. On motion of Mr. Patman, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill.

In the reading of the bill the following section was reached:

SEC. 2. (a) Payment of the face value of adjusted-service certificates under section 509 or 510 of the World War Adjusted Compensation Act, as amended, shall be made in United States notes not bearing interest. The Secretary of the Treasury is hereby authorized and directed to issue such notes in such amount as may be required to make such payment, and of the same wording, form, size, and denominations as United States notes issued under existing law, except that

[1] Champ Clark, of Missouri, Speaker.

[2] Second Session Seventy-third Congress, Record p. 4379.

[3] Henry T. Rainey, of Illinois, Speaker.

the wording thereon shall conform to the provisions of this act. The Administrator of Veterans' Affairs and the Secretary of the Treasury are hereby authorized and directed jointly to prescribe rules and regulations for the delivery of such notes in payment under section 509 or 510 of the World War Adjusted Compensation Act, as amended.

(b) United States notes issued pursuant to the provisions of this act shall be lawful money of the United States and shall be maintained at a parity of value with the standard unit of value fixed by law. Such notes shall be legal tender in payment of all debts and dues, public and private, and shall be receivable for customs, taxes, and all public dues, and when so received shall be reissued. Such notes, when held by any national banking association or Federal Reserve bank, may be counted as a part of its lawful reserve. The provisions of sections 1 and 2 of the act of March 14, 1900, as amended (U.S.C., title 31, secs. 314 and 408), and section 26 of the Federal Reserve Act, as amended (U.S.C., title 31, sec. 409), are hereby made applicable to such notes in the same manner and to the same extent as such provisions apply to United States notes.

Mr. John Taber, of New York, made the point of order that the section carried an appropriation, and the Committee on Ways and Means, therefore, was without authority to report the bill.

The Chairman [1] overruled the point of order and said:

The section of the rule to which the gentleman from New York refers, and on which he relies to support his point of order, provides as follows:

"No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations."

Now, this bill had not been reported by the Committee on Ways and Means, as the gentleman from New York suggests. It has not been reported by any committee. The committee having jurisdiction has been discharged from its further consideration, and it has been brought before the House under the provisions of the discharge rule specifically authorizing its consideration. The question as to whether it carries an appropriation, or does not carry an appropriation, is immaterial. The rule cited by the gentleman from New York does not apply, and the point of order is overruled.

1020. A member calling up a bill from the Discharge Calendar is precluded from making a point of order against it.

On August 7, 1911,[2] a Monday on which the consideration of motions on the Calendar of Motions to Discharge Committees was in order, Mr. Adolph J. Sabath, of Illinois, called up from the calendar a motion to discharge the Committee on Immigration and Naturalization from consideration of the bill (H. R. 1343) to amend the immigration act.

Having been recognized by the Speaker for that purpose, Mr. Sabath submitted the point of order that the bill had not been referred to the Committee on Immigration and Naturalization a sufficient number of days when the motion was filed.

Mr. Swagar Sherley, of Kentucky, made the point of order that, having called up the motion, Mr. Sabath was precluded from raising a question of order against it.

The Speaker [3] sustained the point of order and said:

The Chair sustains the point of order that when a motion to discharge a committee from the consideration of a bill is called up the Member calling it up can not make a point of order against it.

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[1] Clarence Cannon, of Missouri, Chairman.

[2] First session Sixty-second Congress, Record, p. 3710.

[3] Champ Clark, of Missouri, Speaker.

1021. The House having discharged a committee under the former rule, it was held that the proper motion for consideration was, if a House Calendar bill, that the House proceed to immediate consideration; if a Union Calendar bill, that the House resolve into Committee of the Whole to consider the bill.

The requirement that a bill be considered in Committee of the Whole is not waived by the fact that the standing committee having jurisdiction has been discharged from consideration, and the bill is not on the calendar.

On Monday, May 5, 1924,[1] the first Monday of the month, immediately after the approval of the Journal, Mr. Alben W. Barkley, of Kentucky, called up from the calendar the motion to discharge the Committee on Interstate and Foreign Commerce for consideration of the bill (H. R. 7358) to provide for arbitration between carriers and their employees, a bill placed on the calendar April 11.

The question on agreeing to the motion to discharge the committee from further consideration of the bill, being taken, was decided in the affirmative, yeas 194, nays 181.

Whereupon Mr. Barkley moved that the House proceed to the immediate consideration of the bill. The motion was agreed to by a vote of yeas 197, nays 172.

Mr. Barkley then moved that the House resolve itself into the Committee of the Whole House on the state of the Union to consider the bill.

The Speaker announced that the noes seemed to have it, when Mr. Barkley submitted that the House, having previously agreed to consider the bill, the second motion was superfluous and the House should have automatically resolved into the Committee of the Whole House on the state of the Union.

The Speaker[2] said:

This is the first time this rule has been interpreted, and the Chair thinks it is quite important that we should settle it now carefully and rightly. The rule under which we are proceeding provides that if the motion to discharge prevails, it shall then be in order for any Member who signed the motion to move that the House proceed to the immediate consideration of the bill. While the rule provides that the House shall proceed to the immediate consideration of the bill, yet in the case of a bill which must be considered in Committee of the Whole House on the state of the Union the Chair thinks that the proper motion would be not to proceed to immediate consideration but that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill, because that is the procedure in other similar situations. One can not raise the question of consideration in the House on a bill that is on the Union Calendar, because it has been held that the way to raise the question of consideration in that situation is 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. That motion raises the question of consideration. It seems to the Chair that it would establish a good precedent if the House should follow that analogy here and decide that when a bill from which the committee has been discharged is on the House Calendar, the proper motion is that the House proceed to its immediate consideration, but that when it is a bill that must be considered in Committee of the Whole, the motion would be 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. It seems preposterous to say that we should first move to consider the bill and then move to go into the Committee of the Whole House on the state of the Union to consider it, which raises the same issue. Why would it not be well to follow the

[1] First session Sixty-eighth Congress, Record, p. 7874.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

analogies of ordinary procedure and hold that with a bill that must be considered in the Committee of the Whole House on the state of the Union, the proper way to raise the question of consideration is to move that the House resolve itself into the Committee of the Whole House on the state of the Union? In that way the question of consideration is raised immediately. When it is a bill which does not need consideration in the Committee of the Whole then the proper motion is that the House proceed to its immediate consideration.

The one question that it seems to the Chair as wise for us to have settled now, with a view to the procedure in the future, is as to whether, when a bill is one which requires to be considered in Committee of the Whole, there shall be two votes on that, one to consider the bill, and second, to go into Committee of the Whole; and the Chair does not criticize the gentleman from Kentucky in moving consideration. He followed the exact language of the rule, as was the proper and safe course. But the Chair thinks we might well decide now that for the future we might give the language a different interpretation. There are two ways of raising the question of consideration in the House—one by using that language and the other, in the case of bills on the Union Calendar, by moving to go into the Committee of the Whole for their consideration. Why should we not follow that precedent here and, in case of bills which impose a charge on the Treasury, move that the House proceed to its immediate consideration by moving that the House resolve itself into the Committee of the Whole House? Then we follow the spirit of the rule, if not its exact language, and save one roll call, and the Chair would be inclined, if it is a bill that requires the House to go into Committee of the Whole, that that motion should be made immediately, and then it would not be necessary to make the motion for immediate consideration.

1022. A motion to take up a bill, from the consideration of which a committee has been discharged, under the former rule, being rejected, the motion was held not to be again in order on the same Monday, but to retain its privilege, and be admissible on a subsequent first or third Monday.

Except in sessions ending by law, business admissible on the last six days of a session is not in order until the concurrent resolution providing for adjournment has passed both Houses.

On Monday, May 19, 1924,[1] pending a motion by Mr. Alben W. Barkley, of Kentucky, under the former rule, that the House resolve into the Committee of the Whole House on the state of the Union to consider the bill (H. R. 7358) to provide for arbitration between carriers and their employees, Mr. Royal C. Johnson, of South Dakota, as a parliamentary inquiry, asked what would be the status of this bill if the motion was decided in the negative.

The Speaker[2] said:

This may not be important at present, but it raises a question in the construction of this rule which may some day be important, and the Chair will state just how it lies in his mind.

The rule provides that when a bill is brought up the first day, if the question of consideration is voted down—and the Chair stated two weeks ago he thought that the question of consideration of a bill on the Union Calendar like this could be raised by moving to go into Committee of the Whole House on the state of the Union—if that was voted down the rule provides that the bill goes onto the ordinary calendar; but if it is not voted down it becomes a privileged question. The Chair is inclined to think that after the day when a bill first comes up, if the House has decided to consider it, after that when it is called up, either as at present to go into the Committee of the Whole of if the question of consideration should be raised in the case of a bill that was not on the Union Calendar, the Chair is disposed to think if that motion should be voted down that the bill would not lose its privilege; that it has attained its privilege the first day by consideration being given, and that instead of going to the calendar it would still be privi-

[1] First session Sixty-eighth Congress, Record, p. 8894.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

leged business on the days provided in the rule—the first and third Mondays; and reverting to the exact question to-day, if the motion to go into committee should be voted down, then this bill would be in order again two weeks from to-day, just as it is to-day, and would not lose its privilege and go to the calendar.

Mr. Barkley asked if rejection of the motion would dispose of the bill for that day.

The Speaker replied:

The Chair would think so, and that the suspension of the rules and Consent Calendar would then come up.

Mr. Barkley further inquired when the motion would be precluded under the clause prohibiting consideration of such business during the last six days of the session.

The Speaker said:

The last six days of the session are never determined on in the long session until near the close of the session. We never know when the last six days are until the concurrent resolution is passed providing for the adjournment. Unless that has been passed before two weeks from to-day, the Chair thinks it would still be privileged.

1023. Prior to revision of the rule making bills called up the continuing business until disposed of, bills remaining undisposed of at adjournment on Monday, instead of coming up as unfinished business on the following legislative day went over to the next Monday on which that class of business was again in order.

The Speaker held that while the courts may not construe a law in the light of debate attending its passage in the Legislature, the rules are to be interpreted according to views of their purport expressed at the time of adoption.

On Tuesday, May 6, 1924,[1] Mr. Martin B. Madden, of Illinois, from the Committee on Appropriations, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the District appropriation bill.

Mr. Alben W. Barkley, of Kentucky, offered, as preferential, a motion to resolve into the Committee of the Whole for the further consideration of the bill (H. R. 7358) to provide for arbitration between carriers and their employees, from which the Committee on Interstate and Foreign Commerce had been discharged and which was under consideration at adjournment on the preceding day.

The Speaker[2] said:

The Chair appreciates that this is an important question, because it is a precedent for the future conduct of the House under this rule. Let us consider the exact parliamentary status. The Chair recognized the chairman of the Committee on Appropriations to move to take up an appropriation bill which was partly finished. As against that the gentleman from Kentucky, who has charge of the bill considered yesterday under the discharge rule, moved to take up the bill, claiming it had a higher privilege. In order to recognize the gentleman from Kentucky, it must be shown that it has a higher privilege than an appropriation bill, because if they are of

[1] First session Sixty-eighth Congress, Record, p. 7960.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

equal privilege the Chair has the discretion in recognition, and that is conclusive. Therefore it must be maintained that this bill from which the committee was discharged has a higher privilege than an appropriation bill. The clause of the rule which we must interpret reads:

"If the motion prevails, it shall then be in order for any Member who signed the motion to move that the House proceed to the immediate consideration of such bill or resolution (such motion not being debatable), and such motion is hereby made of high privilege; and if it shall be decided in the affirmative, the bill shall be immediately considered under the general rules of the House."

It is to be observed that the bill itself is not made privileged. Privilege is given only to the original motion to consider the bill; and the question which has been debated and which is really in issue is whether that applies simply to suspension days and so would not come up again for two weeks, or whether it is a continuing privilege and applies today.

It seemed to the Chair that the argument made by the gentleman from Georgia, Mr. Crisp, who was the author of the rule and its main advocate and proponent in the House when it was debated, very lucidly and conclusively stated the meaning of that rule. Of course it could be, by the mere phraseology of the rule, interpreted either way. It could be held to be privileged every day or only Mondays. The fact that it was made a clause of Rule XXVII, the suspension rule, would have some weight.

Then also the well-established law that business which is in order on a special day, if it is not finished, goes over to the next special clay is a suggestive analogy. We have become accustomed to it on Calendar Wednesdays and on suspension days and on the Private Calendar days and it would seem to apply here. But what seems to the Chair conclusive is that when the rule was under consideration in the House the gentleman from Georgia, who was the author and chief advocate of the bill, stated in language which has been quoted on the floor—stated very explicitly—that the intention of the rule was that if a committee was discharged and the bill was not finished on that day it would go over until the next suspension day.

Now, that was stated more than once by him. It was in response to inquiries from Members as to what the proper interpretation of the rule was; and it seems to the Chair that it is very conclusive as to the meaning which the House, when it adopted that rule, understood and intended by it; that the House understood at the time that the business under that rule, if it came up on one Monday, as yesterday, and was not completed, went over for two weeks; and, while in the courts it may not be allowed to ascertain the meaning of a law by examining the debate in the Legislature, it seems to the Chair it is different here. The House only at this session debated this question and adopted this rule. The House was informed by the author of the rule what was intended. There was no remonstrance or difference of opinion that the Chair has been able to find at the time. The House apparently acquiesced in his explanation. And so it seems to the Chair that he is carrying out the purpose of the House in adopting this rule by deciding that the House intended that this language, which might be given either interpretation, was intended to mean that the business should go over for two weeks. So the Chair sustains the point of order.

Chapter CCXVI.[1]

1024. While it is the practice to print memorials from State legislatures in the Senate proceedings, it is not the custom in the House, and such memorials are presented by filing with the Clerk, and are noted by title in the Record and the Journal.

State memorials and petitions may be printed in full in the Record of the House proceedings only by leave of the House as extension of remarks.

On April 24, 1913,[2] Mr. John E. Raker, of California, asked unanimous consent to have printed in the Record a memorial from the Legislature of the State of California relating to citrus fruits of that State.

Mr. James R. Mann, of Illinois, reserved the right to object, and said:

> Mr. Speaker, reserving the right to object, I would like to get the attitude of the House on the question of printing memorials of legislatures in the Record. It is the practice to print these in the Senate. I notice nearly every day in the Record gentlemen drop in the basket a number of memorials or resolutions of legislatures. If it is the intention to allow one gentleman the privilege of having printed in the Record upon presentation in the House resolutions adopted by a legislature, I submit the same privilege should be extended to every other gentleman of the House. A number of new Members have already been to me at different times in the session and asked whether it was the practice and custom of the House to ask unanimous consent to print these resolutions in the Record. I have stated to those gentlemen it was not the custom of the House to do that.

The Speaker[3] acquiesced, and submitted a request by Mr. Raker that he be permitted to extend his remarks in the Record on the subject indicated.

1025. The presentation of memorials addressed to the Speaker is within the discretion of the Chair.

On March 8, 1918,[4] the Speaker laid before the House a memorial from one David L. Baumgarten, Sr., claiming election as Representative from the second congressional district of Ohio.

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[1] Supplementary to Chapter XC.

[2] First session Sixty-third Congress, Record, p. 391.

[3] Champ Clark, of Missouri, Speaker.

[4] Second session Sixty-fifth Congress, Record, p. 3236.

A question being raised as to its reference, Mr. William H. Stafford, of Wisconsin, as a parliamentary inquiry, asked if the memorial carried with it the right of reference.

The Speaker[1] held that presentation and reference were within the discretion of the Speaker.

1026. In briefing petitions for the Record and the Journal, the full list of petitioners is not given, and Members indorse on the back, or on slips attached, the name of the first petitioner only or the locality from which received.

Blanks for briefing petitions for the Record and the Journal may be obtained from the Clerk at the desk.

On June 4, 1914,[2] Mr. Frank B. Willis, of Ohio, submitted the following parliamentary inquiry:

> Mr. Speaker, I notice, in examining the Record, that differences seem to obtain in the practice of different Members in the way in which they present petitions and have them printed in the Record. All Members, of course, receive petitions signed by a large number of people, and I notice that some Members present them in a particular form, simply giving the name of the person who heads the list of the petitioners and giving the subject about which the petition is presented, and stating generally the number of other people who sign the petition, while other Members have printed in the Record the names of all of the signers of the petition. I noticed in the Record the other day where some gentleman presented a petition from certain persons, giving the list of names a column long. If every other Member of the House did the same thing and printed the names of all of his constituents, as he might like to do, there would not be anything in the Record except names. For example, in the last Congress I presented a petition with nearly 2,000 names on it; this, if printed in full, would have filled many pages of the Record. However, in that instance I followed my usual practice in presenting petitions and gave only the name of the person heading the petition, the number of signers, and the substance of the petition. I desire to inquire of the Speaker what the proper practice is in that particular.

The Speaker[1] held that it was not within the privilege of Members to dictate the form in which statements of petitions appear in the Record and Journal except by courtesy of the clerk having jurisdiction, and that it was impracticable in any event to print names of all signers of petitions; that the proper practice was to indorse on the back of a petition or on a slip attached thereto "Petitions from John Doe and others" or "Petitions from Kokomo, Keokuk, or Kalamazoo," as the case might be.

Blanks for use in briefing petitions and memorials for the Record and the Journal are kept at the desk for the convenience of Members and may be secured from the Clerk.

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-third Congress, Record, p. 9789.

Chapter CCXVII.[1]

1027. Under the modern practice the Clerk of the House accepts bills and resolutions for introduction prior to the opening day of the session.

The reference of private bills to committees is indicated by the Member.

Bills providing for preliminary surveys of rivers and harbors are classed as private bills.

On November 2, 1931, in conformity with custom observed in advance of the opening of previous sessions of Congress, the Clerk[2] of the House, dispatched a circular letter to Members as follows:

At the opening of a new Congress bills and joint resolutions are introduced in such great number as to congest the facilities of the Government Printing Office and of the House office force.

It is therefore suggested, in the interest of expedition and accuracy, that Members or their clerks prepare in advance of the meeting of Congress all bills and joint resolutions which are to be introduced during the first days of the session and file them with the Clerk of the House for preparation for printing. Such bills and joint resolutions will be the originals, and it will be unnecessary to make duplicates for deposit in the House.

Thus it will be possible promptly to group the bills in alphabetical order of Members' names for convenient reference in the Congressional Record, and to number the bills of each Member in sequence.

The reference of bills granting pensions should be indicated by the introducer whether to the Committee on Pensions (other than Civil War claims) or to the Committee on Invalid Pensions (Civil War Claims only).

Bills providing for preliminary surveys of rivers and harbors are classified as private bills.

1028. Summaries showing number of bills introduced, number of reports submitted by committees, number of laws enacted, and number of acts of Congress declared unconstitutional by the Supreme Court.

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[1] Supplementary to Chapter XCI.

[2] William Tyler Page, of Maryland, Clerk.

The following table indicates the number of bills and joint resolutions introduced by Members of the House in the Congresses from 1907 to 1934:

Congress.	Bills.	Congress.	Bills.
Sixtieth	12,741	Sixty-seventh	14,941
Sixty-first	14,770	Sixty-eighth	12,859
Sixty-second	16,578	Sixty-ninth	17,794
Sixty-third	16,680	Seventieth	17,769
Sixty-fourth	21,497	Seventy-first	17,909
Sixty-fifth	16,684	Seventy-second	15,415
Sixty-sixth	16,651	Seventy-third	10,346

The following summaries [1] show the proportion of bills reported by committees to those passed by the House in the Sixty-fifth to the Seventy-third Congresses, inclusive:

	Total, Seventy-third Congress.	Total, Seventy-second Congress.	Total, Seventy-first Congress.	Total, Seventieth Congress.	Total, Sixty-ninth Congress.	Total, Sixty-eighth Congress.	Total, Sixty-seventh Congress.	Total, Sixty-sixth Congress.	Total, Sixty-fifth Congress.
Calendar days	267	313	518	259	295	282	624	460	634
Actual days in session	197	241	290	199	225	215	414	372	438
Bills introduced	9, 968	14, 799	17, 373	17, 334	17, 415	12, 474	14, 475	16,170	16,239
Joint resolutions introduced	378	616	536	435	379	385	466	481	445
Simple resolutions introduced	454	408	394	351	457	465	580	710	625
Concurrent resolutions introduced	48	52	53	60	61	48	88	78	75
Total bills and resolutions[a]	10,848	15,875	18,356	18,180	18,312	13,372	15,609	17,439	17,384
Committee reports;									
Union Calendar	549	540	789	853	843	667	637	462	390
House Calendar	369	367	605	719	477	367	333	326	269
Private Calendar	1,010	1,141	1,340	1,053	831	463	480	307	241
Total	1,928	2,048	2,734	2,625	2,151	1,497	1,450	1,095	900
Reported bills acted upon:									
Union Calendar	361	362	615	721	730	525	467	332	247
House Calendar	309	308	500	659	427	324	289	252	176
Private Calendar	545	557	872	1,005	800	404	414	195	42
Total acted upon	1, 15	1,227	1,987	2,385	1,957	1,253	1,170	779	465
Reported bills pending	713	821	747	240	194	244	280	316	435
Total reported	1,928	2,048	2,734	2,625	2,151	1,497	1,450	1,095	900
Resolutions agreed to:									
Simple	420	206	220	171	153	173	281	285	233
House concurrent	20	20	22	23	25	16	35	25	6
Senate concurrent	15	24	21	12	14	15	20	15	5
Total resolutions agreed to	455	250	263	206	192	204	336	325	244

[a]Bills coming from the Senate are not included in this tabulation.

[1] Final calendar, Sixty-eighth Congress, p. 174; Seventy-third Congress, p. 257.

Measures enacted in the Sixty-fifth to the Seventy-fourth Congresses inclusive are classified as follows:

	Total, Seventy-third Congress.	Total, Seventy-second Congress.	Total, Seventy-first Congress.	Total, Seventieth Congress.	Total, Sixty-ninth Congress.	Total, Sixty-eighth Congress.	Total, Sixty-seventh Congress.	Total, Sixty-sixth Congress.	Total, Sixty-fifth Congress.
Public laws:									
Approved	486	441	867	808	1,034	631	550	375	404
Without approval	0	0	0	0	0	0	0	23	.....
Over veto	1	1	2	0	3	1	0	3	.....
Total public laws	487	442	869	808	1,037	632	550	401	404
Public resolutions:									
Approved	53	74	140	71	108	75	104	63	56
Without approval	0	0	0	0	0	0	1	6	.....
Total public resolutions	53	74	140	71	108	75	105	69	56
Private laws	434	326	512	537	568	289	276	124	48
Private resolutions	2	1	3	7	9	0	0	0	0
Total number of laws and resolutions	976	843	1,524	1,423	1,722	996	931	594	508

On February 11, 1925,[1] under leave to extend remarks, Mr. William C. Ramseyer, of Iowa, inserted in the Record a table showing the number of laws enacted by Congress from 1789 to 1925. This table, supplemented to include enactments to 1934, is as follows:

Number of laws enacted by Congress (1789–1934)

Congress.	Public.			Private.			Total.
	Acts.	Resolutions.	Total.	Acts.	Resolutions.	Total.	
First	94	14	108	8	2	10	118
Second	64	1	65	12	.....	12	77
Third	94	9	103	24	.....	24	127
Fourth	72	3	75	10	.....	10	85
Fifth	135	2	137	18	.....	18	155
Sixth	94	6	100	12	.....	12	112
Seventh	78	2	80	15	.....	15	95
Eighth	90	2	92	18	.....	18	110
Ninth	88	2	90	16	.....	16	106
Tenth	87	1	88	17	.....	17	105
Eleventh	90	2	92	25	.....	25	117
Twelfth	162	6	168	39	.....	39	207
Thirteenth	167	16	183	88	.....	88	271
Fourteenth	163	11	174	124	1	125	299
Fifteenth	136	20	156	101	.....	101	257
Sixteenth	109	8	117	91	.....	91	208
Seventeenth	130	6	136	102	.....	102	238
Eighteenth	137	4	141	194	.....	194	335
Nineteenth	147	6	153	113	.....	113	266
Twentieth	126	8	134	100	1	101	235

[1] Second session Sixty-eighth Congress, Record, p. 3525.

Number of laws enacted by Congress (1789–1934)—Continued

Congress.	Public.			Private.			Total.
	Acts.	Resolutions.	Total.	Acts.	Resolutions.	Total.	
Twenty-first	143	9	152	217	.....	217	369
Twenty-second	175	16	191	270	1	271	462
Twenty-third	121	7	128	262	.....	262	390
Twenty-fourth	129	14	143	314	1	315	458
Twenty-fifth	138	12	150	376	6	382	532
Twenty-sixth	50	5	55	90	2	92	147
Twenty-seventh	178	23	201	317	6	323	524
Twenty-eighth	115	27	142	131	6	137	279
Twenty-ninth	117	25	142	146	15	161	303
Thirtieth	142	34	176	254	16	270	446
Thirty-first	88	21	109	51	7	58	167
Thirty-second	113	24	137	156	13	169	306
Thirty-third	161	27	188	329	23	352	540
Thirty-fourth	127	30	157	265	11	276	433
Thirty-fifth	100	29	129	174	9	183	312
Thirty-sixth	131	26	157	192	21	213	370
Thirty-seventh	335	93	428	66	27	93	521
Thirty-eighth	318	93	411	79	25	104	515
Thirty-ninth	306	121	427	228	59	287	714
Fortieth	226	128	354	380	31	411	765
Forty-first	313	157	470	235	64	299	769
Forty-second	514	16	530	450	2	452	982
Forty-third	392	23	415	441	3	444	859
Forty-fourth	251	27	278	292	10	302	580
Forty-fifth	255	48	303	430	13	443	746
Forty-sixth	288	84	372	250	28	278	650
Forty-seventh	330	89	419	317	25	342	761
Forty-eighth	219	65	284	678	7	685	969
Forty-ninth	367	57	424	1,025	3	1,028	1,452
Fiftieth	508	62	570	1,246	8	1,254	1,824
Fifty-first	470	80	550	1,633	7	1,640	2,190
Fifty-second	347	51	398	318	6	324	722
Fifty-third	374	89	463	235	13	248	711
Fifty-fourth	356	78	434	504	10	514	948
Fifty-fifth	449	103	552	880	5	885	1,437
Fifty-sixth	383	60	443	1,498	1	1,499	1,942
Fifty-seventh	423	57	480	2,309	1	2,310	2,790
Fifty-eighth	502	73	575	3,465	1	3,466	4,041
Fifty-ninth	692	83	775	6,248	1	6,249	7,024
Sixtieth	350	61	411	234	1	235	646
Sixty-first	526	69	595	284	3	287	882
Sixty-second	457	73	530	180	6	186	716
Sixty-third	342	75	417	271	12	283	700
Sixty-fourth	400	58	458	221	5	226	684
Sixty-fifth	349	56	405	48	0	48	453
Sixty-sixth	401	69	470	120	4	124	594
Sixty-seventh	550	105	655	275	1	276	931
Sixty-eighth	632	75	707	289	0	289	996
Sixty-ninth	808	71	879	537	7	544	1,423
Seventieth	1,037	108	1,145	568	9	577	1,722
Seventy-first	869	140	1,009	512	3	515	1,524
Seventy-second	442	74	516	326	1	327	843
Seventy-third	487	53	540	434	2	436	976
Total	20,559	3,282	23,841	32,177	545	32,722	56,563

The distinction between the terms public and private, as used in the Statutes at Large, is somewhat arbitrary. Prior to 1845 a number of laws were printed in both groups; these have been classed as public only in the above table. The decided reduction in the number of private acts beginning with the Sixtieth Congress was caused primarily by the combining of a large number of pension bills in a single omnibus pension bill.

On February 24, 1923,[1] Mr. C. William Ramseyer, of Iowa, in the course of a discussion of the constitutionality of the Federal Corrupt Practices act of legislation limiting campaign expenditures and providing for publicity of campaign contributions and disbursements, said:

> Early last fall I endeavored to get a list of all the Supreme Court cases which hold acts of Congress unconstitutional, but such a list was nowhere to be found. I called upon the legislative reference service of the Library of Congress for help, and that service put several of its experts to the task of going through all the Supreme Court reports for the decisions holding acts of Congress unconstitutional. Such a list was finally completed and furnished me on October 12, 1922, which I shall have printed in the Record.
>
> This list contains 48 decisions by the Supreme Court declaring acts of Congress unconstitutional and void since the foundation of our Government, or on an average of one such decision in a little less than three years. It is only fair to observe that such decisions have been more frequent in the late years. For the first 50 years of our Government there were very few such decisions.

Of the 56,563 enactments, 61 have been declared unconstitutional by the Supreme Court.[2] As there are 293 volumes of Supreme Court decisions, including

[1] Fourth session Sixty-seventh Congress, Record, p. 4567.

[2] This list of acts declared unconstitutional, with citation of the decisions invalidating them, corrected and supplemented to include the May term of 1933, is as follows:

1 Stat. 81, § 13 (1 Cranch 137); 2 Stat. 677, c. 22 (6 Wallace 160); 3 Stat. 548, § 8 (19 Howard 393); 12 Stat. 345, § 1 (8 Wallace 603); 12 Stat. 757, c. 81, § 5, (9 Wallace 274); 12 Stat. 766, c. 92, § 5 (2 Wallace 561); 13 Stat. 311, c. 174, § 13 (7 Wallace 571); 13 Stat. 424, c. 20 (4 Wallace 333); 14 Stat. 138 (17 Wallace 322); 14 Stat. 477, c. 169, § 13 (11 Wallace 113); 14 Stat. 484, c. 169, § 29 (9 Wallace 41); 16 Stat. 140, c. 114, § 3, 4 (92 'U.S. 214); 16 Stat. 235, c. 251 (13 Wallace 128); 18 Stat. 187, § 5 (116 U.S. 616); 15 Stat. 37, c. 13, § 1 (142 U.S. 547); 16 Stat. 144 (203 U.S. 1); 16 Stat. 210 and 19 Stat. 141 (100 U.S. 82); 14 Stat. 539 (95 U.S. 670); 16 Stat. 141, § 4 (190 U.S. 127); 17 Stat. 13, c. 22, § 2 (106 U.S. 629); 16 Stat. 154, c. 133, § 3 (127 U.S. 540); 18 Stat. 336, §§ 1, 2 (109 U.S. 3 and 230 U.S. 126); 18 Stat. 479, c. 144, § 2 (174 U.S. 47); 19 Stat. 80, § 6 (272 U.S. 52); 19 Stat. 141 (100 U.S. 82); 25 Stat. 411 (148 U.S. 312); 27 Stat. 25, c. 60, § 4 (163 U.S. 228); 28 Stat. 1018, No. 41 (175 U.S. 1); 28 Stat. 553–560, § 27–37 (157 U.S. 429 and 158 U.S. 601); 29 Stat. 506 (197 U.S. 488); 30 Stat. 428 (208 U.S. 161); 30 Stat. 459 (181 U.S. 283); 30 Stat. 460 (237 U.S. 1); 30 Stat. 461 (237 U.S. 19); 31 Stat. 359, § 171 (197 U.S. 516); 31 Stat. 1341, § 935 (213 U.S. 297); 34 Stat. 232, c. 3073 (207 U.S. 463); 34 Stat. 269, § 2 (221 U.S. 559); 34 Stat. 899, § 3 (213 U.S. 138); 34 Stat. 1028 (219 U.S. 346); 35 Stat. 313, § 4 (224 U.S. 665); 37 Stat. 28 (256 U.S. 232); 37 Stat. 136, § 8 (258 U.S. 433); 37 Stat. 988 (261 U.S. 428); 39 Stat. 675, c. 432 (247 U.S. 251); 39 Stat. 757, § 2(a) (252 U.S. 189); 40 Stat. 395, c. 97 (253 U.S. 149); 40 Stat. 960, c. 174 (261 U.S. 525); 40 Stat. 1065, c. 18, § 213 (253 U.S. 245); Title XII, 40 Stat. 1138 (259 U.S. 20); 41 Stat. 298, § 2 (255 U.S. 81); 41 Stat. 298, § 4 (255 U.S. 109 and 267 U.S. 233); 41 Stat. 317, § 35 (259 U.S. 557); 42 Stat. 187, c. 86 (269 U.S. 475); 42 Stat. 227, c. 136 (277 U.S. 508) ; 42 Stat. 634 (264 U.S. 219); 43 Stat. 313 as amended by 44 Stat. 86, § 324 (276 U.S. 440); 44 Stat. 70, § 302 (385 U.S. 312).

the reports of the term ending June, 1934, comprising decisions on approximately 35,000 cases, it will be seen that the number of decisions affecting the constitutionality of enactments of the Congress, and the number of laws affected, are but small fractions of 1 per cent of the total laws enacted and the total number of cases decided.

The list is limited to cases in which the Supreme Court has passed expressly on the constitutional question.

1029. Two or more Members may not jointly introduce a bill, petition, or resolution.

The procedure of the House is governed in some instances by the practice of the House rather than by express rules.

The rules of parliamentary practice in Jefferson's Manual govern the House in all cases to which they are applicable and in which they are not inconsistent with standing rules and orders.

A committee may not report a bill on a subject matter not referred to it.

On March 3, 1909,[1] Mr. John J. Fitzgerald, of New York, from the select committee appointed under the resolution (H. Res. 553) to investigate and report as to the right of Members to present bills with the name of more than one Member attached, submitted the unanimous report of the committee, which included the following:

> It has been held almost universally that unless a memorial, petition, bill, or other paper upon a designated subject has been referred to a committee it can not report a bill on a subject-matter not thus before it.
>
> These procedures are as firmly established as any founded upon the written rules of the House. It is apparent, therefore, that the introduction or presentation of bills and resolutions is governed in some instances by the practice of the House rather than by express rule.
>
> While the rule itself does not in express terms prohibit the attaching of the name of more than one Member to a bill or resolution when it is delivered to the Clerk or to the Speaker, as the case may be, for reference, attention is called to the second clause, requiring that under certain conditions the bill "shall be returned to the Member from whom it was received." The House, however, in the conduct of its business is not controlled, nor is the business conducted, merely in accordance with the express rules of the House. There are many situations not specifically covered by the written rules which are nevertheless regulated definitely by the procedure which has come down from time immemorial and which procedure is essential to the orderly conduct of the business of the House.
>
> Rule XLIV, which was first adopted in 1837, provides that "the rules of parliamentary practice in Jefferson's Manual shall govern the House in all cases to which they are applicable and in which they are not inconsistent with the standing rules and orders of the House and joint rules of the Senate and House of Representatives."
>
> A casual examination of Rule XXII does not disclose any inhibition against the attachment of more than a single name to a bill or resolution. Examined in the light of the evolution of the rules and practice relating to the presentation of bills, however, and bearing in mind the purpose sought to be accomplished by the changes made from time to time resulting finally in the introduction of all bills without the formality of recognition, it seems clear to the committee that the underlying principle of individual recognition still prevails and that the presentation of a bill involves such recognition.

[1] Second session Sixtieth Congress, Record, p. 3808.

A careful search has been made to ascertain whether the question referred to the committee had ever been raised and determined. No record of such a decision has been found.

The committee has had called to its attention the action of Mr. Thomas B. Reed when Speaker, in a matter involving the same question to be determined by this committee.

Mr. John Sharp Williams, of Mississippi, informed the committee that he had received a memorial from the Legislature of Mississippi while Mr. Reed was Speaker. There were attached to the memorial the names of all of the Representatives from that State, and Mr. Williams placed it in the basket at the Clerk's desk. In the Record the day following, the memorial was reported as having been presented by Mr. Williams alone. Upon inquiry, he was informed that the Speaker, Mr. Reed, had stricken all other names from the memorial, and he later informed Mr. Williams that he had done so since, under the rules, it was impossible for more than one Member to present a memorial.

Had this decision been made in such manner as to have been preserved in the records of the House, it would undoubtedly have been regarded as controlling forever.

A search of the files of the document room discloses that at least 10 bills and resolutions have been presented with the name of more than one Member attached thereto.

Some of these bills were presented in the Fifty-ninth Congress, the others during this Congress. The search could not possibly be complete in its results, since no record is kept of bills so introduced, and it is necessary to rely largely upon the recollection of the employees in the document room.

The information obtained indicated that while the practice has not been so prevalent and long continued as to justify the assertion that it has become a custom and part of the unwritten regulations controlling the procedure and business of the House, it has undoubtedly been sufficiently indulged to vindicate those who, in the absence of a controlling ruling or some action by the House, contend for the practice.

Possible abuses from the continuance of the practice are not discussed, since the committee is unanimously of the opinion that under the true and proper construction of the rule the attaching of the name of more than one member to a bill or resolution is unauthorized.

After debate, on motion of Mr. Fitzgerald, the report was agreed to by the House without division.

1030. An instance in which permission was given for the introduction of a bill at a time when the House would not be in session.

The House having agreed to the introduction of a bill after adjournment, the Speaker announced its reference to a committee.

On August 15, 1921,[1] pending a request that the House recess from 1 o'clock to 5 p. m., Mr. Frank W. Mondell, of Wyoming, asked unanimous consent that the Committee on Ways and Means be authorized to introduce the revenue bill after adjournment. The motion having been agreed to Mr. Finis J. Garrett, of Tennessee, subsequently said:

I heard the request made this morning, that the Committee on Ways and Means, through its chairman, should have until 12 o'clock to-night to introduce the bill. It was a very unusual request, so far as I know. Many times requests have been made and granted that a committee should have until 12 o'clock midnight to report, but not to introduce a bill. However, that unanimous consent was given. That, I suppose, set a precedent that a bill can be introduced when the House is not in session. I do not think it ought to stand. As far as I know—and I thing the gentleman might consider that very carefully—I do not know of any bill being introduced when the House was not in session.

Thereupon Mr. Bourke W. Cockran, of New York, raised the point of order that it was not within the constitutional prerogative of the House to authorize the introduction of a bill at a time when the House was not in session.

[1] First session Sixty-seventh Congress, Record, pp. 5027, 5034.

The Speaker [1] said:

The Chair thinks it is. The Chair believes that the House can receive a report when it is not in session, and the Chair does not understand why the House could not receive a bill.

The Chair thinks the House could do it.

1031. Reference of public bills is by the Speaker through the clerk at the Speaker's table.

On January 9, 1908,[2] a question as to the proper reference of the bill (H. R. 11745) amending the act to admit Oklahoma to statehood having been raised by Mr. Elmer L. Fulton, of Oklahoma, the Speaker [3] explained the method of referring public bills as follows:

The Chair will state to the gentleman from Ohio that this bill was referred to the Committee on the Territories somewhat hastily, as bills have to be referred, where there are a great many introduced daily, by the clerk at the Speaker's desk. While the Speaker makes the reference under ordinary practice, unless it is brought to the attention of the Speaker, references are made by the Speaker through the clerk at the Speaker's table.

1032. Members introducing private bills indorse upon them the name of the committee to which referred under the rule.

On January 29, 1908,[4] following the disposition of business on the Speaker's table, the Speaker [5] annnounced:

The attention of the Chair has been called to the fact that under the rule a Member introducing a private bill should make an endorsement as to what committee it should be referred to. Many Members introduce private bills, especially pension bills, without making the endorsement, and it is not practicable for the clerks in the Journal clerk's Office to tell whether the bill should go to the Committee on Invalid Pensions or to the Committee on Pensions, and much confusion results from the failure of the Members to comply with the rule. The Chair desires to call attention of Members to this fact.

1033. The Senate reference of a bill is not considered in determining the committee to which it shall be referred when taken from the Speaker's table for reference in the House.

On May 31, 1918,[6] Mr. Joseph Walsh, of Massachusetts, called attention to the reference on the preceding Wednesday of the bill (S. 4428) to codify penal laws relating to military offenses to the Committee on Military Affairs, and submitted that the bill should have been referred to the Committee on the Judiciary.

The Speaker [7] said:

The parliamentary clerk informs me that the reason he referred that bill to the Committee on Military Affairs was because the bill came from the Military Affairs Committee of the Senate.

Mr. Walsh made the point of order that the Senate reference of a bill could not be taken into consideration in the reference of a bill when it reached the House.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session, Sixtieth Congress, Record, p. 567.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] First session, Sixtieth Congress, Record, p. 1280.

[5] Joseph G. Cannon, of Illinois, Speaker.

[6] Second session, Sixty-fifth Congress, Record, p. 7236.

[7] Champ Clark, of Missouri, Speaker.

The Speaker sustained the point of order, and, having submitted the question to the House for consent, announced the rereference of the bill from the Committee on Military Affairs to the Committee on the Judiciary.

1034. The Statutes prescribe the form of enacting and resolving clauses of bills and joint resolutions.

It is the function of the Speaker to enforce the provision of the statutes prescribing forms of bills.

On March 3, 1908,[1] Mr. Scott Ferris, of Oklahoma, by unanimous consent, offered the following joint resolution:

Resolved, etc., That the new flag bearing forty-six stars, now floating over the National Capitol, be, and the same is hereby, donated to the Commonwealth of Oklahoma, to be kept and remain in the archives of the Oklahoma Historical Society of Oklahoma.

The Speaker[2] called attention to the failure of the enacting clause to conform to the requirements of the statutes.

Thereupon Mr. Ferris offered the following amendment, which was agreed to:

Amend the resolving clause so as to read:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled."

1035. The statutes and the practice of the House prescribe the style of titles and form of bills.

Authorization to deviate from the form prescribed for bills is properly conferred by joint resolution.

An instance in which the requirement as to form of bill was waived by common consent.

On September 23, 1919,[3] Mr. Joseph Walsh, of Massachusetts, rising to a question of privilege, presented the following point of order:

It appears that on September 20 H. R. 9389, a bill to consolidate, codify, revise, and reenact the general and permanent laws of the United States in force March 4, 1919, was introduced by the gentleman from Kansas, Mr. Little. The bill as printed does not conform either to the rules of the House or to the law, it being printed in fine type, in double columns upon the page, consisting of some 43 pages, 555 sections. I have not had an opportunity to confer with the gentleman from Kansas, but I can not understand why such a measure was printed in such shape, when the law requires bills to be printed in the ordinary bill form, with the lines numbered and of the usual size. If this is intended for a report, of course there can be no objection to it. It does not appear to be a bill, because, while it has a title, it contains no enacting clause. It does, however, upon its title-page contain the note that it will be amended so that it will include all general and permanent laws in force March 4, 1919.

In reply, Mr. Edward C. Little, of Kansas, said:

Mr. Speaker, this character of legislation has not been attended to by the House for 45 years. The last time the statutes of the United States were revised and reenacted was in the Revised Statutes in 1874. We are pursuing the exact method that they pursued at that time. The gentleman states that there is no enacting clause, but if he will turn to the first page of the bill he will find it begins "Be it enacted," just as every other similar law does. It also is the method pur-

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[1] First session Sixty-sixth Congress, Record, p. 2822.

[2] Joseph C. Cannon, of Illinois, Speaker.

[3] First session Sixtieth Congress, Record, p. 5788.

sued in every State in the Union in which they have issued such a book. The gentleman suggests that it will be amended. This bill will consist, probably of 10,000 sections and about 1,500 pages or more. If it is amended it will never be passed at all. If I anticipated that it was to be the subject of debate and amendment, I would not ask the House to pass on it, because it would take 18 months to work with it at all. We have introduced it just as it was introduced before, pursuing the same method. This was done after a long conference with the superintendent of work down there as to the best method of doing it, and was adopted at his suggestion. We also conferred with the chairman of the House Committee on Printing. I have a letter from the Public Printer in which he states that the printing of the bill in the ordinary form would cost over $34,000, and to print it in this shape, when done, would cost $11,000. The reason we printed it this way is that we will save $23,000.

The Speaker [1] , said:

The Chair is disposed to think that the technical point made by the gentleman from Massachusetts is correct. The law specifically provides that all legislation shall be first printed in due form, which the Chair understands is in the form which we have always used, printed with lines numbered, and this obviously does not conform to that practice. Therefore the Chair at first blush would think that it does not conform to the law. Neither does it seem to conform to the law in the enacting clause. The gentleman from Kansas states strong reasons for his action, but it seems to the Chair that that would have to be done by a joint resolution. It may be that the spirit and the purpose of the law is economy, but the law specifically proves that all bills and resolutions shall be printed in bill form. The Chair does not see how this conforms to that provision.

However, this bill, comprising 1,635 pages, was again introduced in identical form in the Sixty-eighth Congress,[2] and, as H. R. 12, was passed by the House under suspension of the rules, no question as to the form of the bill being raised.

1036. A joint resolution is a bill within the meaning of the rules.

The term "bill" is a generic one and includes resolutions.

On March 17, 1910,[3] Mr. Edgar D. Crumpacker, of Indiana, from the Committee on the Census, proposed to call up, as privileged under the Constitution, joint resolution (H. J. Res. 172) amending the census act.

Mr. Thomas S. Butler, of Pennsylvania, raised a question of order as to the privilege of the resolution.

Thereupon the Speaker submitted to the House the following question:

Is the bill called up by the gentleman from Indiana in order as a question of constitutional privilege, the rules prescribing the order of business to the contrary notwithstanding?

Mr. Warren J. Keifer, of Ohio, made the point of order that the question should be amended by substituting for the word "bill" the word "resolution."

The Speaker [4] said:

The word "bill" is a generic one, and would cover the resolution.

1037. A joint resolution is the proper vehicle for authorization of invitations to foreign Governments.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixty-eighth Congress, Record, p. 643.

[3] Second session Sixty-first Congress, Record, p. 3289.

[4] Joseph G. Cannon, of Illinois, Speaker.

A concurrent resolution is without force and effect beyond the confines of the Capitol.

A concurrent resolution may be changed to a joint resolution by amendment.

On February 28, 1908,[1] on motion of Mr. David J. Foster, of Vermont, the House proceeded to the consideration of the concurrent resolution (S. Con. Res. 5) extending an invitation to foreign Governments to participate in an international congress.

Mr. James R. Mann, of Illinois, submitted that a concurrent resolution was without force beyond the confines of the Capitol and would confer no authority on the Secretary of State, and that a joint resolution and not a concurrent resolution was the proper vehicle for the purpose.

Thereupon, by approval of the Speaker,[3] Mr. Foster offered an amendment changing the concurrent resolution to a joint resolution, and the resolution as amended was agreed to.

1038. Forms and conditions of bills making declaration of war.

On April 2, 1917,[2] Mr. Henry D. Flood, of Virginia, introduced, by delivery to the Clerk, the joint resolution (H. J. Res. 24) declaring that a state of war exists between the Imperial German Government and the Government and people of the United States, and making provision to prosecute the same.

The joint resolution was referred to the Committee on Foreign Affairs, which reported it back to the House with amendments to read as follows:

Whereas the Imperial German Government has committed repeated acts of war against the Government and the people of the United States of America, Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the state of war between the United States and the Imperial German Government which has thus been thrust upon the United States is hereby formally declared; and that the President be, and he is hereby, authorized and directed to employ the entire naval and military forces of the United States and the resources of the Government to carry on war against the Imperial German Government; and to bring the conflict to a successful termination all of the resources of the country are hereby pledged by the Congress of the United States.

On April 5,[3] Mr. Flood moved 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, and, pending that, asked unanimous consent that the joint resolution (S. J. Res. 1), identical in form and which had passed the Senate on the preceding day, be substituted for the House joint resolution as amended by the committee.

There being no objection to the substitution, and the motion being agreed to, the Senate joint resolution was considered in the Committee of the Whole and, being reported back with favorable recommendation, was agreed to by the House, yeas 373, nays 50.

1039. Disposition of Government property is effected by bill or joint resolution only, and a simple resolution is inadequate for that purpose.

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[1] First session Sixtieth Congress, Record, p. 2661.

[2] First session Sixty-fifth Congress, Record, p. 129.

[3] Record, p. 306.

On January 17, 1920,[1] Mr. Clifford Ireland, of Illinois, from the Committee on Accounts, offered, as privileged, the following resolution:

Resolved, That the Superintendent of the Capitol Building and Grounds is hereby authorized to deliver to Members of the House who were Members of the House in the Sixty-second Congress, upon their application, the desks formerly in the House which were occupied by them, respectively, in said Congress: *Provided,* That no expense to the House is hereby incurred.

Mr. James R. Mann, of Illinois, raised the question of order that Government property could not be disposed of by simple resolution.

The Speaker[2] having sustained the point of order, Mr. Ireland withdrew the resolution.

1040. A joint resolution was substituted for a bill in amending the census act.

On March 15, 1910,[3] Mr. Edgar D. Crumpacker, of Indiana, by direction of the Committee on the Census, reported the joint resolution (H. J. Res. 172) enlarging the scope of inquiry of the schedules relating to population of the Thirteenth Decennial Census.

Mr. James R. Mann, of Illinois, called attention to a bill making the same provision which had passed the Senate the day before.

Mr. Crumpacker explained that the committee deemed a joint resolution, rather than a bill, the proper method of amendment. The joint resolution passed the House and was agreed to by the Senate.[4]

1041. Instance in which an enrolled bill was amended by concurrent resolution.

On August 5, 1909,[5] a message was received from the Senate transmitting a concurrent resolution (S. Con. Res. 8) authorizing the Committee on Enrolled Bills of the two Houses to amend the bill H. R. 1438, the tariff bill, which had passed both Houses and been enrolled.

Immediately upon receipt of the resolution in the House, on motion of Mr. Sereno E. Payne, of New York, by unanimous consent, the concurrent resolution was taken from the Speaker's table and agreed to.

In the course of debate on the concurrent resolution Mr. John J. Fitzgerald, of New York, said:

Mr. Speaker, an examination of the precedents discloses that there has not been a similar incident in the history of the country in which bills were amended in the identical way proposed here. Clerical errors and corrections have been made after bills have reached the enrolling clerks, but no substantial change or radical correction has been authorized except where the discovery was after the bill had passed both Houses, and then only to make the bill conform to the proposal of the conference committees. If it were not for the very comprehensive language of Judge Harlan in Field against Clark, 143 U. S., I doubt very seriously whether it could be held

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[1] Second session Sixty-sixth Congress, Record, p. 1674.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-first Congress, Record, p. 3193.

[4] Record, p. 3460.

[5] First session Sixty-first Congress, Record, p. 5088.

that the boot and shoe amendment as proposed in this concurrent resolution had passed both Houses of Congress.

1042. A concurrent resolution and not a simple resolution is required to authorize correction, however trivial, of a bill agreed to by both Houses.

On March 3, 1909,[1] the House agreed to the conference report on the bill (S. 2982) amending the Criminal Code.

Thereupon Mr. Reuben O. Moon, of Pennsylvania, asked unanimous consent for consideration of the following resolution:

Resolved, That the Secretary of the Senate be authorized to renumber the sections consecutively; to strike out the headnotes at the beginning of each chapter to sections which have been omitted and to renumber the headnotes to correspond to the numbers given the sections; to correct the reference in one section to other sections; to correct typographical errors; and to correct the punctuation as indicated by the committee on conference.

Mr. James R. Mann, of Illinois, raised a point of order against the resolution.

The Speaker[2] sustained the point of order and held that a concurrent resolution was required.

1043. Instance in which a joint resolution was changed to a concurrent resolution by amendment.

On April 13, 1912,[3] the Senate proceeded to the consideration of the joint resolution (H. J. Res. 254) congratulating the people of China on the assumption of self-government, which the Senate Committee on Foreign Relations had reported back to the Senate as a concurrent resolution.

The amendment changing the joint resolution to a concurrent resolution was adopted and the resolution was agreed to by the Senate as amended.

1044. A joint resolution may be changed to a concurrent resolution by amendment.

A Senate joint resolution changed by amendment of the House to a concurrent resolution is still a Senate measure and the enacting clause conforms to that requirement.

A resolution which does not relate to rules, joint rules, or order of business is not privileged when reported by the Committee on Rules.

On January 13, 1920,[4] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, reported the Senate joint resolution (S. J. Res. 69) authorizing the appointment of a joint commission to the Virgin Islands, with the following recommendation:

The committee recommends that the resolution be changed from a joint resolution to a concurrent resolution.

After consideration had begun, the Speaker pro tempore[5] said:

When this resolution was submitted the Chair was not furnished with a copy, and assumed that it was the usual privileged resolution from the Committee on Rules. When it was read the Chair was clearly of the opinion that it was not a privileged resolution, but no one raised the

[1] Second session Sixtieth Congress, Record, p. 3792.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Second session Sixty-second Congress, Record, p. 4703.

[4] Second session Sixty-sixth Congress, Record, p. 1510.

[5] John Q. Tilson, of Connecticut, Speaker pro tempore.

point of order, and the gentleman from Kansas did not ask unanimous consent to consider it. There was, however, a decided pause, and no one objected or raised a point of order. Therefore the Chair assumed that unanimous consent had been given.

Mr. James R. Mann, of Illinois, then submitted, as a parliamentary inquiry, the following:

Mr. Speaker, I desire to submit a parliamentary inquiry. This is a joint resolution as it comes to the House—

"Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled."

We have agreed to a proposition to change that to a concurrent resolution. However, the language has not been suggested as an amendment. I am prompted to make the inquiry—I do so that the engrossing clerk of the House may know what he is to do. Will this then read

"Resolved by the Senate (the House of Representatives concurring)"—

Or will it read—

"Resolved by the House of Representatives (the Senate concurring)."

It originates in the Senate, the House amends it and changes it to a concurrent resolution, but it seems to me that the House in making that change would still leave the resolving clause as having originated in the Senate—

"Resolved by the Senate (the House concurring)."

It occurs to me that that would be the proper mode. I do not think this question has arisen very often, though it has at times in the past. The amendment which we agree to was the change from a joint resolution to a concurrent resolution. The amendment was agreed to, but the committee did not report the language striking out and inserting, leaving the matter to the engrossing clerk.

The Speaker pro tempore ruled:

The Chair is of opinion that we can not change the work of the Senate. It is a Senate joint resolution. It will appear—

"Resolved by the Senate (the House of Representatives concurring)."

That is the form in which it will go to the Senate. The action of the House was that the amendment be agreed to making it a concurrent resolution.

1045. A concurrent resolution may be changed to a joint resolution by amendment.

A concurrent resolution is not used in conveying title to Government property.

On January 15, 1923,[1] during the call of the Consent Calendar, the concurrent resolution (S. Con. Res. 30) declining a devise of land to be used as a national park, was considered and agreed to with the following amendment:

Insert: "*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled" in lieu of "the Senate (the House of Representatives concurring).*"

1046. A joint resolution may be changed to a concurrent resolution by amendment.

On March 4, 1919,[2] Mr. Henry, D. Flood, of Virginia, from the Committee on Foreign Affairs, moved to suspend the rules and pass the joint resolution (H. J. Res. 357) urging the independence of Ireland, with an amendment substituting a concurrent resolution therefor.

Mr. James R. Mann, of Illinois, raised a question of order as to the substitution.

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[1] Fourth session Sixty-seventh Congress, Record, p. 1773.

[1] Third session Sixty-fifth Congress, Record, p. 5042.

Mr. Flood said:

It was the desire of this committee to report the resolution, a concurrent resolution, not a joint resolution, and so we agree on the concurrent resolution as a substitute for a joint resolution. And then we had some question as to what the parliamentary status would be when it got in the House, and while that matter was being considered by the parliamentary clerk, I introduced this other resolution as a joint resolution. But after consultation it was decided that it was in perfect parliamentary form to report a concurrent resolution as a substitute for the joint resolution. Therefore we reported it.

The question being taken, and two-thirds having voted in favor thereof, the rules were suspended and the concurrent resolution was passed.

1047. A joint resolution may be changed to a simple resolution by amendment.

On June 4, 1924,[1] when the joint resolution (H. J. Res. 258) creating a joint committee to investigate the administration of Indian affairs in Oklahoma was called on the Consent Calendar, the committee amendment substituting the resolution (H. Res. 348) for the joint resolution was adopted and the resolution as amended was agreed to by the House.

1048. In a contested ruling it was held that a simple Senate resolution embodying a declaration on pending legislation, when messaged to the House, was not subject to disposition by motion.

On January 17, 1928,[2] the Senate messaged to the House the following resolution:

Resolved, That many of the rates in existing tariff schedules are excessive, and that the Senate favors an immediate revision downward of such excessive rates, establishing a closer parity between agriculture and industry, believing it will result to the general benefit of all;

Resolved further, That such tariff revision should be considered and enacted during the present session of Congress; and

Resolved further, That a copy of this resolution be transmitted to the House of Representatives.

The passage of the Senate resolution having been announced in the House, Mr. Finis J. Garrett, of Tennessee, submitted a parliamentary inquiry as to the committee to which it would be referred.

The Speaker[3] answered:

The Chair understands it does not require any action in the House or any reference.

Mr. Garrett then inquired if the resolution would lie on the Speaker's table, to which the Speaker replied:

The Chair understands it is merely a notification from the Senate and requires no reference at all. It has been read. The document is in the possession of the Clerk, and therefore of the House, and it is spread upon the Journal.

Thereupon, Mr. Garrett moved that the resolution be referred to the Committee on Ways and Means.

The Speaker said:

The Chair does not think that motion is in order.

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[1] First session Sixty-eighth Congress, Record, p. 10597.

[2] First session Seventieth Congress, p. 1603.

[3] Nicholas Longworth, of Ohio, Speaker.

Mr. Garrett then moved to refer the Senate resolution to the Committee of the Whole House on the state of the Union.

Mr. John Q. Tilson, of Connecticut, made a point of order against the motion.

Pending the decision of the point of order, Mr. John N. Garner, of Texas, said:

This is the first time in the history of my service here or in any other body where a matter came into the House of Representatives and it was held that the House did not have some control over it; that it is a sacred document which can not be reached by the House of Representatives in any way whatever. I do not understand the philosophy of such a rule. If the Senate sends a piece of paper to this House or if the Legislature of the State of Texas or the people of the city of Cincinnati send a petition to this House, the position taken by the Chair is that if the House itself desires to take such petitions and refer them to a committee of the House, the House itself has no right to do it under the rules of the House of Representatives. I do not understand the philosophy of that.

The Speaker sustained the point of order.

Mr. Garrett having appealed from the decision of the Chair, Mr. Tilson moved to lay the appeal on the table.

The question being put, the yeas and nays were ordered, when the yeas were 183, the nays were 164, and the appeal was laid on the table.

1049. The House declined to consider a bill similar in import to one previously rejected in the same session.

The Speaker held that it was for the House rather than the Chair to decide whether a bill was "of the same substance" as another previously considered.

Discussion of the authority and importance of Jefferson's Manual in the law of the House.

On Wednesday, March 9, 1910,[1] when the Committee on Foreign Affairs was reached in the call of committees, Mr. Frank O. Lowden, of Illinois, from that committee, called up the bill (H. R. 22312) for the purchase of embassy buildings abroad.

Mr. George W. Prince, of Illinois, made the point of order that on March 2 a bill of the same substance had been rejected by the House, and, under section XLIII of Jefferson's Manual, was not again in order in the same session.

The Speaker[2] said:

The Chair has listened with attention and with much interest to the presentation of this point of order and to its discussion. Touching Jefferson's Manual, the Chair does not agree with the criticism made by a committee of the House, if the Chair recollects, in 1880, that it is substantially antiquated and of but little authority. The observation of the Chair is that Jefferson's Manual is in constant use by the House and is adopted by one of the rules of the House. The Chair is satisfied that the clause of Jefferson's Manual which is cited here, as a general proposition, lays down a very salutary and useful principle:

"A bill once rejected, another of the same substance can not be brought in again at the same session."

Now, the object of the rule in the Manual, touching this as a matter of practice, was that there should be a finality when the House had once considered a proposition, that a similar proposition, in substance the same, should not be in order during the same session; and yet there comes the question of fact as to whether it is in substance the same.

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[1] Second session Sixty-first Congress, Journal, p. 872; Record, p. 2965

[2] Joseph G. Cannon of Illinois, Speaker.

Jefferson's Manual, in dealing with the subject of inconsistent amendments, lays down the general principle that were the Chair permitted to draw questions of consistence within the vortex of order he might usurp a negative on important modifications and suppress, instead of subserving, the legislative will.

Jefferson's Manual, as it is modified by the rules of the House—and they have all to be construed together and in the light of precedents that are made and the practice of the House under other rules—may apparently from time to time lead to conflicting decisions. In two instances it seems to be required that the Chair shall enter into the question of substance or consistency. Take the rule of the House that prohibits legislation on a general appropriation bill—a salutary rule in the opinion of the Chair and in the opinion of the House, because it has rested in the rules of the House for more than a generation.

Now, who shall determine in that case under that rule as to whether an amendment or a proposition contains legislation? In the practice, which seems necessary under the rule, the Chairman of the Committee of the Whole decides, overruling or sustaining the point of order as the case may be, always, of course, subject to appeal and approval or reversal. In practice, therefore, the Chair constantly in Committee of the Whole determines whether the proposition is legislation such as is prohibited by the rules. Again, one of the rules of the House provides that in a certain case a Senate bill "substantially the same" as a House bill may be substituted for the House bill. The Chair in such case practically determines whether the Senate bill is substantially the same, for under the conditions of such bills it would practically be impossible for the House to determine the question. Therefore there are these two exceptions to the principle that the Chair should not decide questions as to substance or consistency.

It has been held that if an amendment proposed to a bill under consideration be changed one word, it will be a different proposition, although it may be substantially the same. The Chair recollects that this is the practice which is uniform, so far as amendments are concerned, both in Committee of the Whole and in the House.

The Chair cites the rule touching amendments proposing legislation on appropriation bills, the practice of the House touching similar but not identical amendments, and the substitution from the Speaker's table of a Senate bill "substantially the same" as the House bill, in order to show that under this code of rules and the practice of the House no hard-and-fast rule can be observed by the Speaker, although the general principle that he should not decide questions as to substance and consistency is undoubtedly sound.

Now, while the Chair is in full harmony with the provision cited from Jefferson's Manual forbidding the bringing in again of a bill the same in substance as one already decided adversely during the session, yet the Chair is not unmindful of the decision made by Mr. Speaker Banks in 1856, touching the Army appropriation bill. In that case there was a "rider" put upon the bill touching the use of money appropriated in that bill in enforcing the so-called (as the Chair recollects) Le Compton constitution of Kansas. The bill failed through disagreement of the House and Senate. A new bill was proposed with the "rider" omitted, and Mr. Speaker Banks ruled that the provision in Jefferson's Manual did not apply to the new bill. It is not for the Chair to criticise that ruling, because there was no appeal from the same. But the Chair is quite aware that touching appropriation bills and bills of general importance, if a bill should fail because of a certain single provision which might cause disagreement between the Houses, and if it should be necessary to introduce a new bill without the provision to which there had been disagreement, and if it should be a close question as to whether the new bill was substantially the same as the old bill, the Chair, if he were to assume decision of the question as to substance, might, in effect, put himself in the position of negativing the consideration of the bill or deciding affirmatively in favor of its consideration. So that under this condition, the Chair, after having examined the various precedents and the practice of the House differing upon various methods of procedure under the rules, recognizing the importance of there being finality where the House has once acted but recognizing also the importance of not making a decision that if acquiesced in may bind the hands of the House in matters of very great importance, the Chair believes it is better to submit this question of order to the House, as to whether this bill is substantially the same as the bill which was rejected a week ago to-day.

Accordingly, the Speaker submitted to the House the question:

Shall the point of order made by the gentleman from Illinois be sustained?

And being put, it was decided in the affirmative by a vote of yeas 150, nays 134. So the point of order was sustained.

1050. An exceptional instance wherein the Chair entertained a motion that the Clerk be directed to read a pending paragraph as it would read if modified by a proposed amendment.

On January 22, 1924,[1] the House was considering, in the Committee of the Whole House on the state of the Union, the Interior Department appropriation bill.

Mr. Frank Clark, of Florida, asked that the paragraph under consideration be read as it would read if the pending amendment offered by Mr. Louis C. Cramton, of Michigan, was adopted.

The Chairman[2] held that the paragraph having been once read could be again read only by order of the committee.

Whereupon Mr. Otis Wingo, of Arkansas, moved that the Clerk be directed to read the paragraph as it would read if the proposed amendment was agreed to.

The Chairman entertained the motion, and, the question being put, it was decided in the affirmative, and the Clerk read the paragraph as if modified by the pending amendment.

1051. In the House amendments are offered to any part of a bill after it is read the second time.

On Monday, March 26, 1928,[3] a day devoted to consideration of bills reported by the Committee on the District of Columbia, Mr. Frederick H. Zihlman, of Maryland, called up the bill (H. R. 52) relative to bonds for compensation in criminal cases in the District of Columbia.

Before the Clerk had concluded the reading of the bill, Mr. Ralph Gilbert, of Kentucky, moved to strike out the last word.

The Speaker[4] declined to recognize him during the reading of the bill.

Mr. Gilbert then asked to make a statement with reference to certain committee amendments which had been omitted through inadvertence.

The Speaker said:

The bill being a House bill should be read through before there are any amendments offered.

The Clerk concluded the reading of the bill.

1052. In the consideration of bills on the House Calendar, the second reading is in full and amendments are not in order until after the reading is concluded, when they may be offered to any part of the bill.

On February 4, 1931,[5] it being Calendar Wednesday, Mr. Scott Leavitt, of Montana, from the Committee on Indian Affairs, exercising the call on that day, called up the bill (S. 3165), on the House Calendar, conferring jurisdiction on the Court of Claims to consider the claims of certain Indian tribes.

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[1] First session Sixty-eighth Congress, Record, p. 1322.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] First session Seventieth Congress, Record, p. 5388.

[4] Nicholas Longworth, of Ohio, Speaker.

[5] Third session Seventy-first Congress, Record, p. 3972.

Mr. William H. Stafford, of Wisconsin, as a parliamentary inquiry, asked when it would be in order to offer amendments.

The Speaker pro tempore [1] held that amendments to bills on the House Calendar were in order after the entire bill had been read, and when reading had been concluded amendments could then be offered to any part of the bill.

1053. A bill considered in the House is read in full but is not read for amendment under the 5-minute rule, and amendments are not in order until the reading of the bill is completed.

The Member in charge of a bill under consideration in the House is recognized for an hour, during which he may move the previous question or yield time, but in yielding to a Member to offer an amendment he surrenders the floor.

On February 11, 1929,[2] during consideration of bills reported by the District of Columbia Committee, Mr. Frederick N. Zihlman, of Maryland, from that committee, called up the bill (H. R. 6664) to establish a woman's bureau in the Metropolitan police department of the District of Columbia.

Mr. Thomas L. Blanton, of Texas, being recognized to propound a parliamentary inquiry, asked when it would be in order to offer amendments.

Mr. John Q. Tilson, of Connecticut, supplemented the question with an inquiry as to the reading of the bill.

The Speaker [3] replied:

> This is a House Calendar bill. Amendments are not in order until the bill is completely read. It will not be read for amendment under the 5-minute rule as Union Calendar bills are read, so if it is to be read at all it must be read now.
>
> The gentleman from Maryland, in charge of the bill, is entitled to one hour, during which he can move the previous question. The gentleman can not yield for the purpose of permitting a Member to offer an amendment unless he desires to yield his right to the floor.

1054. Even when a substitute has been reported to the House the original bill must be read unless dispensed with by unanimous consent.

The Speaker makes it his duty, ordinarily, to object to a request for unanimous consent that a bill may be acted on without being read.

On June 6, 1911,[4] Mr. Robert L. Henry, from the Committee on Rules, reported the resolution (H. Res. 154) authorizing an investigation of the fiscal affairs of the District of Columbia, with a substitute therefor, and asked that the substitute be read in lieu of the original resolution.

The Speaker [5] held that the original resolution must be read before consideration began.

1055. On February 17, 1911,[6] while the House was in the Committee of the Whole House for the consideration of bills on the Private Calendar, the bill (S. 7971) for the allowance of certain claims reported by the Court of Claims was taken up.

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[1] Bertrand H. Snell, of New York, Speaker pro tempore.

[2] Second session Seventieth Congress, Record, p. 3277.

[3] Nicholas Longworth, of Ohio, Speaker.

[4] First session Sixty-second Congress, Record, p. 1718.

[5] Champ Clark, of Missouri, Speaker.

[6] Third session Sixty-first Congress, Record, p. 2803.

Mr. Thetus W. Sims, of Tennessee, moved that the further reading of the bill be dispensed with.

The Chairman [1] held that the motion was not in order and that the reading of the bill could be dispensed with by unanimous consent only.

1056. Under exceptional circumstances, bills have been considered and passed without reading in full.

On January 21, 1874,[2] the House having met in evening session for the purpose of considering the bill (H. R. 1215) to revise and consolidate the statutes of the United States in force on December 1, 1873, the Speaker pro tempore [3] announced:

> Unless otherwise ordered by the House the Chair will direct the several chapters of the bill to be read by their titles.

Consideration of the bill continuing on the following day,[4] it was ordered, on motion of Mr. Ebenezer Rockwood Hoar, of Massachusetts, that the bill be read by titles, with the understanding that any section might be returned to if errors were found.

1057. On December 20, 1920,[5] Mr. Edward C. Little, of Kansas, by direction of the Committee on the Revision of the Laws, offered the following motion:

> I move to suspend the rules, read by title only, and pass the bill (H. R. 9389) entitled "A bill to consolidate, codify, revise, and reenact the general and permanent laws of the United States in force March 4, 1919," being the complete bill of 10,747 sections as finally drafted by said committee and printed under its direction pursuant to public resolution No. 24, approved December 23, 1919, a copy of which is duly in possession of the Clerk.

The question being taken, and two-thirds voting in favor thereof, the rules were suspended and the bill was passed.

On May 16, 1921,[6] the same bill, reintroduced as H. R. 12, was again considered and passed under suspension of the rules without reading in full.

In the Sixty-eighth Congress [7] the same bill, again numbered H. R. 12, re-enacting the laws of the United States in force December 2, 1923, was again passed under the same procedure.

1058. Senate amendments taken up in the House are read before consideration begins.

On June 7, 1910,[8] the Speaker laid before the House the bill (H. R. 17536) to create a commerce court, with Senate amendment, the amendment not requiring consideration in the Committee of the Whole.

Mr. James R. Mann, of Illinois, moved to disagree to the amendment of the Senate, when the Speaker interposed with a statement that the amendment had not yet been read.

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[1] Frank D. Currier, of New Hampshire, Chairman.

[2] First session Forty-third Congress, Record, p. 821.

[3] George Frisbee Hoar, of Massachusetts, Speaker pro tempore.

[4] Record, p. 849.

[5] Third session Sixty-sixth Congress, Record, p. 574.

[6] First session Sixty-seventh Congress, Record, p. 1477.

[7] First session Sixty-eighth Congress, Record, p. 643.

[8] Second session Sixty-first Congress, Record, p. 7568.

Mr. Charles L. Bartlett, of Georgia, announced that he desired to submit a point of order against the motion to disagree.

The Speaker [1] said:

But the amendment of the Senate should first be read to the House, and the Clerk will read.

1059. On August 1, 1911,[2] on motion of Mr. Oscar W. Underwood, of Alabama, the bill (H. R. 11019), the tariff bill, with a Senate amendment thereto, was taken from the Speaker's table and considered in the House as in Committee of the Whole

Mr. Underwood moved to disagree to the amendment of the Senate, when Mr. James R. Mann, of Illinois, raised the question that the amendment should be read before consideration.

The Speaker [3] having sustained the point of order, a motion by Mr. Underwood that the reading of the amendment be dispensed with was agreed to by unanimous consent.

1060. On May 10, 1917,[4] the bill (H. R. 3673) amending the Federal reserve act, with Senate amendments, having been taken from the Speaker's table for consideration, Mr. Carter Glass, of Virginia, moved to disagree to the amendments.

Mr. James R. Mann, of Illinois, made the point of order that the amendment must be read before being voted upon.

The Speaker [3] sustained the point of order and directed the Clerk to report the amendments.

1061. The third reading of a Senate bill is by title only, and a Member may not demand as a matter of right that it be read the third time in full.

The proper time to demand the reading of the engrossed copy is immediately after ordered to be engrossed and before read a third time by title.

On May 22, 1922,[5] the House, on division, by a vote of yeas 241, nays 9, ordered the third reading of the bill (S. 2919) extending the District of Columbia rents act.

Mr. Thomas L. Blanton, of Texas, demanded that the bill be read for the third time in full.

The Speaker pro tempore [6] said:

The Chair would state that with reference to House bills a Member has a right to demand the reading of the engrossed bill. The House has nothing to do with engrossing a Senate bill. The amendment adopted by the House is engrossed and sent to the Senate with its bill by message. If a Member desires to have what has been engrossed read, for the purpose of observing whether or not it is in accord with the action of the Committee of the Whole or if it is correctly engrossed, if it were possible to do so under the rules, in the view of the Chair, the proper time to demand the reading of the engrossed amendment would be at the time it is reported, prior to the vote thereon in the House. Having been agreed to and incorporated as a part of the Senate bill, without a demand for the reading thereof, it seems to the Chair that that action having been taken under the rules, a third reading in full of the Senate bill does not under a fair interpretation of the rule remain as a matter of right.

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] First session Sixty-second Congress, Record, p. 3439.

[3] Champ Clark, of Missouri, Speaker.

[4] First session Sixty-fifth Congress, Record, p. 2075.

[5] Second session Sixty-seventh Congress, Record, p. 7426.

[6] Joseph Walsh, of Massachusetts, Speaker pro tempore.

1062. A Member may demand the reading in full of the actual engrossed copy of a bill, and such demand suspends action until the engrossed copy is before the House.

The previous question having been ordered on a bill, the reading of the engrossed copy of which has been demanded after order for reading has been agreed to but deferred pending arrival of the actual engrossed copy, is privileged when the engrossed copy is received in the House.

On July 16, 1919,[1] the bill (H. R. 5726), the minimum wage bill, was ordered to be engrossed and read a third time, when Mr. Thomas L. Blanton, of Texas, requested the reading of the engrossed copy of the bill.

In response to a parliamentary inquiry from Mr. Charles Pope Caldwell, of New York, the Speaker[2] explained that it would be necessary to lay the bill aside until it could be engrossed and the engrossed copy received in the House.

Mr. Julius Kahn, of California, submitted a further inquiry as to the parliamentary status of the bill when the engrossed copy was received.

The previous question having been ordered on the bill to final passage, the Speaker held that the bill would be privileged and could be called up for passage when the engrossed copy was delivered to the House.

1063. The House may not consider a Senate bill unless in possession of the engrossed copy.

On December 22, 1916,[3] on motion of Mr. John N. Tillman, of Arkansas, by unanimous consent, the House proceeded to the consideration of the bill (S. 6864) to provide for the Osage Indian School, Oklahoma.

Mr. James R. Mann, of Illinois, made the point of order that the Clerk was not reading from the engrossed copy of the bill, and the bill could not be considered unless the House was in possession of the engrossed copy.[4]

The Speaker[5] sustained the point of order.

1064. The vote on a committee amendment striking out the preamble of a resolution comes after the passage of the resolution.

On May 4, 1912,[6] Mr. Lemuel P. Padgett, of Tennessee, from the Committee on Naval Affairs, called up, as privileged, the resolution (H. Res. 363) requesting the Secretary of the Navy to report to the House certain information relating to the purchase of naval supplies from the United States Steel Corporation, with committee amendments to the resolution and the accompanying preamble.

The committee amendment to the resolution having been agreed to, the Speaker proposed to put the question on agreeing to the committee amendment striking out the preamble.

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[1] First session Sixty-sixth Congress, Record, p. 2689.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-fourth Congress, Record, p. 705.

[4] Under the present practice, Senate engrossed bills are no longer actually delivered to the respective committees of the House, but are filed in the bill clerk's office until reported by the House committee, when the engrossed copy is placed in the calendar box on the Clerk's table.

[5] Champ Clark, of Missouri, Speaker.

[6] Second session Sixty-second Congress, Record, p. 5682.

Mr. James R. Mann, of Illinois, raised the question of order that the vote on the amendment to the preamble should come after the passage of the resolution.

The Speaker,[1] sustaining the point of order, put the question on agreeing to the resolution as amended, which was decided in the affirmative. The question on agreeing to the amendment striking out the preamble was then submitted and agreed to.

1065. In the Committee of the Whole an amendment to the preamble of a bill or joint resolution is considered after the bill has been read for amendment.

After an amendment to the preamble of a bill has been considered it is too late to propose amendment to the text of the bill.

On January 28, 1924,[2] the joint resolution (H. J. Res. 160) for the employment of attorneys with reference to oil leases was being considered in the Committee of the Whole House on the state of the Union.

The reading of the joint resolution for amendment having been completed, Mr. Finis J. Garrett, of Tennessee, as a parliamentary inquiry, asked when it would be in order to amend the preamble.

The Chairman[3] said:

After the committee has acted on the resolution. As the Chair understands, after talking with the parliamentarian about that subject, it would probably be in order to offer an amendment to the preamble in the Committee of the Whole.

Thereupon Mr. Garrett proposed an amendment to the preamble.

The Chairman said:

Does any Member desire to offer an amendment to the resolution itself? [After a pause.] If not, the gentleman's amendment will be in order now.

Pending which, Mr. Thomas L. Blanton, of Texas, offered an amendment to the joint resolution.

Mr. Everett Sanders, of Indiana, having raised a question of order against the amendment to the joint resolution, the Chairman ruled:

The Chair is of opinion it is too late to make the amendment. The Chair asked whether any gentleman desired to offer an amendment to the resolution itself. None was offered. Then we took up the preamble, and now it is too late to go back to the resolution and offer an amendment.

1066. On April 25, 1932,[4] the Committee of the Whole House on the state of the Union concluded the reading for amendment of the joint resolution (H. J. Res. 154) to provide for the merger of street railway corporations operating in the District of Columbia.

Mr. William H. Stafford, of Wisconsin, demanded the reading of the preamble.

Mr. Thomas L. Blanton, of Texas, objected on the ground that the time for reading the preamble has passed and it was then too late to return to it.

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] First session Sixty-eighth Congress, Record, p. 1584.

[3] William J. Graham, of Illinois, Chairman.

[4] First session Seventy-second Congress, Record, p. 8908.

The Chairman[1] overruled the objection and directed the Clerk to read the preamble.

1067. Instance wherein the Clerk was authorized to make such clerical changes in the table of contents, numbering and lettering, erroneous or superfluous cross references and other purely formal amendments as were required to conform to the action of the House and secure uniformity in typography, indentation, and numerical order of the text of a bill.

In the consideration of a bill in the Committee of the Whole, the committee in charge of a bill was authorized to return to any section or paragraph which had been passed for the purpose of offering amendments.

On March 18, 1932,[2] Mr. Charles R. Crisp, of Georgia, moved 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. 10236), the revenue bill, and pending that motion, sent to the Clerk's desk a request for unanimous consent which the Clerk read as follows:

I ask unanimous consent that in the reading of the pending revenue bill, H. R. 10236, the reading of the table of contents (pp. 2 to 6, both inclusive) be dispensed with, and that in the engrossing of the bill the Clerk of the House be authorized to make such changes in such table of contents as may be necessary to make such table conform to the action of the House in respect of the bill.

In reply to inquiries under reservations of the right to object, Mr. Crisp explained that inconsistencies in numbering and other minor clerical details were frequently unavoidable and the purpose of the request was to make it possible for the Clerk, in engrossment, to harmonize such details to conform to the action of the Committee of the Whole in amending the bill.

There being no objection and the request having been granted, Mr. Crisp submitted an additional request, which the Clerk read as follows:

I ask unanimous consent that in the engrossing of the pending revenue bill (H. R. 10236) the Clerk of the House be authorized—

(1) To make such clerical changes as may be necessary to the proper numbering and lettering of the various portions of the bill, and to secure uniformity in the bill in respect of typography and indentation; and

(2) To amend or strike out cross references that have become erroneous or superfluous, and to insert cross references made necessary by reason of changes made by the House.

In response to further interrogatories, Mr. Crisp said:

Mr. Speaker, I may say that a similar request was made in connection with the bill of 1928. It is simply for the purpose of having the bill engrossed in accordance with the action the House takes instead of going back each time and getting permission to make the necessary changes.

The request was agreed to and the House having resolved itself into the Committee of the Whole, Mr. Crisp asked recognition to propose a further request.

The Clerk read:

I ask unanimous consent that in the consideration of the pending revenue bill (H. R. 10236) in the Committee of the Whole it shall be in order at any time for the Committee on Ways and

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[1] Ewing R. Thomason, of Texas, Chairman.

[2] First session Seventy-second Congress, Record, p. 6467.

Means to return to any section or paragraph of the bill which has been passed for the purpose of offering an amendment thereto.

There was no objection.

1068. Authority to correct an error in enrolling a bill was conferred on the Clerk by concurrent resolution.

On May 22, 1908,[1] on motion of Mr. Albert S. Burleson, of Texas, by unanimous consent, the following concurrent resolution was considered and agreed to by the House:

Resolved by the House of Representatives (the Senate concurring), That the Clerk be authorized in enrolling the District of Columbia appropriation bill to transpose the word "hereafter" in the second proviso in the matter inserted by the conference report in connection with Senate amendment No. 141, so as to follow and not precede the word "teachers."

1069. By concurrent resolution, the Clerk was authorized to correct errors in a bill agreed to by the two Houses.

On February 25, 1919,[2] on motion of Mr. James R. Mann, of Illinois, by unanimous consent, the following resolution was considered and agreed to by the House:

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H. R. 12211) entitled "An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, "the Clerk" be, and he is hereby, authorized and directed to strike out the name "Hermann" and to insert in lieu thereof the name "Herrman" where it appears in line 19, page 11, of said bill.

1070. On March 3, 1921,[3] the Speaker[4] said:

A mistake was made in the Senate in printing a bill that passed the House. The Chair asks unanimous consent for the consideration of the following resolution, which the Clerk will report.

The Clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill H. R. 14490, entitled "An act to transfer the Panhandle and Plains section of Texas and Oklahoma to the United States Standard Central Time Zone," the Clerk of the House be authorized and directed to insert, on page 2, line 13, after "Santa Fe," the words "Railway Co. and other branches of Santa Fe."

There being no objection, the resolution was considered and agreed to.

1071. By concurrent resolution, conferees were authorized to amend a bill in conference.

On February 15, 1923,[5] following the appointment of managers on the part of the House on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 13660), the District of Columbia appropriation bill, the House, by unanimous consent, considered and agreed to the following concurrent resolution proposed by Mr. Louis C. Cramton, of Michigan:

Resolved by the House of Representatives (the Senate concurring), That the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate No. 24 to the

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[1] First session Sixtieth Congress, Record, p. 6779.

[2] Third session Sixty-fifth Congress, Record, p. 4244.

[3] Third session Sixty-sixth Congress, Record, p. 4519.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

[5] Fourth session Sixty-seventh Congress, Record, p. 3701.

bill (H. R. 13660) making appropriations for the government of the District of Columbia and other activities, etc., be authorized to agree to striking out the following language, "at the Virginia end of the Key Bridge."

1072. A Senate bill having been lost in the House after enrollment and signature by the Speaker, a Senate resolution authorized the preparation and delivery of a duplicate copy, which was signed by the Speaker without further action by the House.

On February 16, 1911,[1] the Speaker laid before the House the following resolution received from the Senate:

Resolved, That the Secretary of the Senate be authorized to furnish the House of Representatives with a duplicate enrolled copy of the bill (S. 9405) to amend section 5 of the act of Congress of June 25, 1910, entitled "An act to authorize advances to the reclamation fund, and for the issue and disposal of certificates of indebtedness in reimbursement therefor, and for other purposes," the original having been lost or mislaid.

The Speaker[2] said:

The Chair will state that the Journal of the House shows the Speaker has already signed the enrolled bill that was referred to, but in some way the same has been lost or misplaced; and the Chair therefore has signed a duplicate which the Senate has sent here. The Clerk will report the title.

1073. A Senate bill having been lost in the House, a resolution requesting of the Senate a duplicate copy was entertained by unanimous consent.

Form of resolution requesting of the Senate a duplicate copy of one of its bills.

On July 17, 1912,[3] on motion of Mr. Ben Johnson, of Kentucky, it was—

Resolved, That the Clerk be directed to request the Senate to furnish the House of Representatives with a duplicate engrossed copy of the bill (S. 2748), etc.

1074. A House bill with Senate amendments having been lost, the House agreed to an order for reengrossment of the bill, and directed the Clerk to request from the Senate a copy of its amendment thereto.

On February 11, 1909,[4] Mr. John C. Chaney, of Indiana, stated that the joint resolution (H. J. Res. 219) with Senate amendments had been lost in the course of transmission from the Senate to the House and offered severally the following orders, which were agreed to by the House.

Ordered, That the Clerk be directed to request the Senate to furnish to the House a copy of Senate amendment to House Joint Resolution 219, accepting the gift of Constitution Island, in the Hudson River, New York, to replace the original copy of the amendment which has been lost.

Ordered, That House Joint Resolution 219, to accept the gift of Constitution Island, in the Hudson River, New York, be reengrossed.

1075. Instance wherein bills passed at one session were signed by the Speaker at the next session.

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[1] Third session Sixty-first Congress, Record, p. 2665.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Second session Sixty-second Congress, Record, p. 9189.

[4] Second session Sixtieth Congress, Record. p. 2206.

On December 16, 1916,[1] the Speaker[2] in announcing his signature to the bill (H. R. 8116) for the relief of Charles Snyder, and the joint resolution (H. J. Res. 282) authorizing the use of a special canceling die for the one hundredth anniversary of the admission of the State of Illinois into the Federal Union, said:

With the consent of the House the Chair desires to make a short statement about these bills reported from the Committee on Enrolled Bills. It will be remembered that early in this session the House passed a concurrent resolution authorizing the Speaker and the President of the Senate, or the Vice President, as the case may be, to sign two bills which were passed at the last session, but not passed in time to be signed. The Senate indefinitely postponed that resolution. The Chair signed these bills, and the Chair has laid them before the House because he believes the Speaker, the Vice President, or the President of the Senate pro tempore have as much right to sign these bills as any other bill. There is nothing anywhere the Chair has been able to find that fixes any time when the Speaker, the Vice President, or the President of the Senate pro tempore shall sign bills. The Chair has laid them before the House with that statement because he believes the Chair had the right to sign, resolution or no resolution, and that the resolution is superfluous.

1076. Instance in which the Vice President signed a bill passed and signed by the Speaker at the preceding session.

On December 4, 1917,[3] in the Senate, the Vice President,[4] preliminary to affixing his signature to the bill (H. R. 5833), said:

The Chair desires to call to the attention of the Senate the following state of facts with reference to House bill 5833. It is a bill granting six months' pay to Ida Cottrell Hodgson, widow of Frederick Grady Hodgson, deceased, colonel, United States Army, retired. The records of both the House and the Senate disclose that this bill was passed at the first session of the present Congress. It was signed by the Speaker of the House, but did not arrive at the Senate in time to be signed by the Presiding Officer of the Senate. The Chair believes that he has a right now to attach his signature to the bill. Is there any objection on the part of any Senator? If the question is thought to be of sufficient moment to require an investigation, the Chair will wait.

There is nothing in the Constitution of the United States to prevent its being signed and the Chair knows of nothing in the rules of the Senate, and as no attention has been called to any statute the Chair will sign the bill and lay it before the Senate.

Whereupon the Secretary of the Senate announced the signature of the Vice President to the bill.

1077. A concurrent resolution authorized the presiding officers of the two Houses to cancel their signatures to an enrolled bill failing to conform to recommendations of the Secretary of War.

Under authorization of a concurrent resolution, the Speaker announced in the House the cancellation of his signature.

On February 18, 1909,[5] the House agreed to the following concurrent resolution:

Resolved, etc., That the action of the Speaker of the House of Representatives and of the Vice President of the United States and the President of the Senate in signing enrolled bill H. R. 10752, "to complete the military record of Adolphus Erwin Wells," be, and hereby is, rescinded, and that in the reenrollment of the bill the following amendment be made so as to comply with the form adopted by the Secretary of War, etc.

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[1] Second session Sixty-fourth Congress, Journal, p. 345; Record, p. 442.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Sixty-fifth Congress, Record, p. 18.

[4] Thomas R. Marshall, of Indiana, Vice President.

[5] Second session Sixtieth Congress, Record, p. 2664.

The Speaker,[1] in announcing the cancellation of his signature in compliance with this resolution, said:[2]

The House, by concurrent resolution, authorized the Speaker to vacate his signature to the bill (H. R. 10752) to correct the military record of Adolphus Erwin Wells, which the Speaker now does.

1078. By concurrent resolution, the action of the Speaker and the Vice President in signing an enrolled bill was rescinded and the bill amended.

On February 19, 1909,[3] on motion of Mr. Robert G. Cousins, of Iowa, by unanimous consent, the following concurrent resolution was taken from the Speaker's table and, being considered, was unanimously agreed to:

Resolved by the Senate (the House of Representatives concurring), That the action of the Speaker of the House of Representatives and of the Vice President of the United States and President of the Senate in signing the enrolled bill (S. 5989) authorizing the Department of State to deliver to Maj. C. De W. Wilcox decoration and diploma presented by Government of France, be, and is hereby, rescinded, and that in the reenrollment of the bill the word "Wilcox" in line 3 of the bill, is stricken out and the word "Willcox" substituted therefor.

1079. On February 3, 1925,[4] in the Senate, Mr. Joseph E. Ransdell, of Louisiana, by unanimous consent, presented and the Senate agreed to the following resolution:

Resolved by the Senate (the House of Representatives concurring), That the action of the Speaker of the House of Representatives and of the President pro tempore of the Senate in signing the enrolled bill (S. 3622) granting the consent of Congress to the Louisiana Highway Commission to construct, maintain, and operate a bridge across the Bayou Bartholomew be rescinded, and that the Secretary of the Senate be, and he is hereby, authorized and directed to reenroll the bill with the following amendments:

In line 3 of the enrolled bill strike out "Polish" and insert "Police."

1080. The action of the Speaker in signing an enrollred bill was rescinded and the bill was amended by a concurrent resolution.

On June 4, 1920,[5] on motion of Mr. George W. Edmonds, of Pennsylvania, by unanimous consent, the House considered the concurrent resolution (S. Con. Res. 26), which was unanimously agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Speaker of the House of Representatives be requested to cancel his signature to the enrolled bill:

S. 1005. An act for the relief of the owner of the steamship *Matoa;* and

That upon the cancellation of such signature the Secretary of the Senate be directed to reenroll said bill S. 1005, with an amendment as follows: etc.

1081. A request of one House for the return of a bill by the other is complied with as a matter of routine.

On March 29, 1910,[6] the Speaker laid before the House a communication from the Senate requesting the return of the bill (S. 1119) to authorize the appointment of Frank de I. Carrington as major of infantry.

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] Record, p. 2702.

[3] Second session Sixtieth Congress, Record, p. 2757.

[4] Second session Sixty-eighth Congress, Record, p. 2915.

[5] Second session Sixty-sixth Congress, Record, p. 8553.

[6] Second session Sixty-first Congress, Record, p. 3896.

Mr. Charles L. Bartlett, of Georgia, rose to a parliamentary inquiry and questioned the propriety of compliance with the request.

The Speaker [1] said:

The Chair is not aware that that courtesy has ever been denied either by the House or Senate.

1082. A request of the Senate for the return of a bill was denied by the House, unanimous consent being refused.

The request of the Senate for the return of a bill may be agreed to in the House by unanimous consent only.

On February 19, 1925,[2] in the Senate, Mr. James W. Wadsworth, jr., of New York, said:

At the session last night the bill (H. R. 5084) to amend the national defense act was passed with an amendment added to it on the floor of the Senate. Although it is a House bill the amendment constituted the text of a bill already passed by the Senate and it is under a Senate number. The bill has encountered a hopeless parliamentary tangle in the House. I enter a motion to reconsider the vote by which the bill was passed.

The motion to reconsider was entered and thereupon, on motion of Mr. Wadsworth, it was—

Ordered, That the House of Representatives be requested to return to the Senate the bill (H. R. 5084) to amend the national defense act, approved June 13, 1916, as amended by the act of June 4, 1920, relating to retirement, and for other purposes.

The request having been communicated to the House and being submitted for unanimous consent, Mr. John C. McKenzie, of Illinois, objected.

Accordingly, the House, on February 24,[3] agreed to the following order:

Ordered, That the Clerk inform the Senate that the House has considered the request of the Senate for the return of the bill (H. R. 5084) entitled "An act to amend the national defense act approved June 13, 1916, as amended by the act of June 4, 1920, relating to retirement, and for other purposes," and that the unanimous consent necessary to comply with the request at that time was refused.

1083. A request of the Senate that the House vacate the signature of the Speaker to an enrolled bill was denied by the House, unanimous consent being refused.

Dicta to the effect that a request of the Senate for cancellation of the Speaker's signature and the return of an enrolled bill could be taken up for consideration under suspension of the rules.

A resolution directing return of a bill to the Senate, with notice of refusal of the House to grant the Senate's request relating thereto, was held not to present a question involving the privilege of the House.

On December 13, 1926,[4] the following resolution was messaged to the House from the Senate:

Resolved, That the Secretary of the Senate be, and he is hereby, directed to return to the House of Representatives the enrolled bill (S. 4480) providing for the extension of the time limitations under which patents were issued in the case of persons who served in the armed forces of the United

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] Second session Sixty-eighth Congress, Record, p. 4103.

[3] Record, p. 4560.

[4] Second session Sixty-ninth Congress, Record, p. 413.

States during the World War, together with the engrossed bill, with the request that the Speaker of the House be authorized to rescind his action in signing the enrolled bill; that in the event such authority is granted, the House be, and it is hereby, respectfully requested to reconsider its vote on the passage of the bill and return the engrossed bill to the Senate.

On receipt of the message in the House, Mr. Albert H. Vestal, of Indiana, submitted a request for unanimous consent to take the resolution from the Speaker's table for immediate consideration.

Mr. Meyer Jacobstein, of New York, objected to the request.

Whereupon, Mr. Vestal asked unanimous consent for the consideration of the following:

Ordered, That the Speaker be, and he hereby is, empowered and directed to strike his signature from the enrolled bill (S. 4480), that the proceedings whereby said bill was passed be, and the same are hereby, vacated, and the engrossed bill be returned to the Senate, in accordance with the request of the Senate.

Mr. Thomas L. Blanton, of Texas, objected, and the resolution remained on the Speaker's table until January 17, 1927,[1] when Mr. Blanton offered this resolution as privileged:

Whereas the bill (S. 4480) was duly passed by the Senate, was duly engrossed, and by the Senate duly messaged to the House, and was by the House fully passed and the bill was duly enrolled, duly signed by the Speaker, and messaged back to the Senate for the signature of the President of the Senate; and

Whereas thereafter, on December 13, 1926, the Senate messaged to the House a resolution asking that the Speaker withdraw his signature from the enrolled bill, that the House rescind its action in passing said engrossed bill, and that said engrossed bill be returned to the Senate, which action could be taken in the House only by unanimous consent; and

Whereas on said day, December 13, 1926, such unanimous consent was requested in the House and was refused, following which action and report thereof should have been messaged to the Senate with the return of said bill to it, but said bill has remained on the Speaker's table ever since December 13, 1926: Therefore be it—

Resolved by the House of Representatives, That said bill be messaged back to the Senate with notice of such refusal to grant the action prayed for by the Senate.

The Speaker[2] ruled that the resolution did not involve a question of the privilege of the House, and declined to extend recognition.

Subsequently, on February 7,[3] Mr. Finis J. Garrett, of Tennessee, raised the question of order that it was the duty of the Speaker to return the resolution to the Senate with notice of the action of the House.

The Speaker held:

The resolution here to be sent to the Senate is that the Speaker have authorization to sign the enrolled bill. The Speaker does not deem it his duty in the absence of an order from the House to do this. So far as the question of privilege is concerned, there is no privilege attached to this matter.

Quoting from section 4694 of volume 4 of Hinds' Precedents—

"A request of the Senate for the return of a bill, no error being alleged, does not make in order a motion in the House to discharge the committee having possession of the bill."

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[1] Record, p. 1789.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] Record, p. 3183.

That is the position of this bill. The Chair thinks that the only way to rescind his signature would be by order of the House, by rule, or by unanimous consent.

The Speaker then read section 3457 from Hinds' Precedents and continued:

In other words, the Chair does not feel that he is authorized to take the action requested unless ordered to do so by the House, and that question is not a matter of privilege. It can only be done by unanimous consent or a rule.

In response to a further inquiry by Mr. Blanton, the Speaker held that the request of the Senate could be brought up for consideration in any parliamentary way open to unprivileged matters, including suspension of the rules.

Chapter CCXVIII.[1]

APPROVAL OF BILLS BY THE PRESIDENT.

1084. The question as to whether concurrent resolutions should be sent to the President for his signature.

On June 1, 1920,[2] the Senate was considering the concurrent resolution (S. Con. Res. 27) respectfully declining to grant to the Executive the power to accept a mandate over Armenia, as requested in the message of the President dated May 24) 1920, when Mr. Gilbert M. Hitchcock, of Nebraska, offered an amendment empowering the President to appoint American members of a joint commission to supervise certain fiscal relations of Armenia.

Mr. Henry Cabot Lodge, of Massachusetts, presented a point of order, as follows:

Mr. President, I rise to a question of order. I make the point of order that this is a concurrent resolution, and under the practice of the two Houses a concurrent resolution does not go to the President and never carries legislation. The concurrent resolution now before us carries no legislation and does not go to the President. The proposed amendment clearly is legislation requiring the assent of the President, and therefore would not be in order on a resolution which does not go to the President.

The Vice President[3] said:

The Chair is aware of the fact that there have been a great many opinions expressed as to what resolutions under the Constitution should properly go to the President and what should not go to him. If any Senator can present to the Chair an opinion of the Supreme Court of the United States to the effect that a concurrent resolution need not go to the President, the Chair will be glad to be guided by it. So far as the Chair is aware, no such decision of the Supreme Court of the United States has ever been rendered; certainly none has ever been cited to the Chair. The Chair is therefore of the opinion that the amendment proposed by the Senator from Nebraska is in order, and overrules the point of order which has been made against it.

1085. The House originating a measure transmit to the President or to the Secretary of State, as the circumstances require.

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[1] Supplementary to Chapter XCII.

[2] Second session Sixty-sixth Congress, Record, p. 8072.

[3] Thomas R. Marshall, of Indiana, Vice President.

On July 16, 1909,[1] the Speaker announced his signature to enrolled joint resolution (S. J. Res. 40) proposing an amendment to the Constitution of the United States.

Mr. Charles L. Bartlett, of Georgia, as a parliamentary inquiry, asked:

Mr. Speaker, the Chair has just laid before the House a report of the Committee on Enrolled Bills, which states that Senate joint resolution No. 40, providing for an amendment to the Constitution giving Congress the power to levy an income tax without regard to the census or enumeration, has been signed; and I desire to know whether the Speaker will transmit that resolution to the President for his signature? I know the precedents, and I know that it has been decided by the Supreme Court of the United States in the Third Dallas—in the case of Hollingsworth *v.* Virginia. It has been heretofore ruled by a former Speaker, when the question was raised, that it was not necessary to submit the resolution to amend the Constitution to the President for his approval. I call the Chair's attention to the matter now in order that the Chair's attention may be called to the precedents in this regard, and for the other purpose, Mr. Speaker, that if it is necessary the House may take such usual and necessary methods in the premises to have the States of the Union informed of the action of the Congress in this respect. It is because of that precedent and because of the decision of the Supreme Court of the United States to which I refer which decision arose upon the eleventh amendment to the Constitution, that I have thought proper to direct the Chair's attention to the subject now.

The Speaker[2] said:

The Chair desires to state that this joint resolution originated in the Senate. It was passed by the House, and the joint resolution, duly enrolled, is signed by the Speaker and reported to the House, and it will be transmitted from the House to the Senate, in which body it originated, and the uniform practice is that the body originating the measure transmits it to the proper depository.

1086. A concurrent resolution to send to the President for approval bills which had passed both Houses in the previous session of the same Congress but which for want of time failed to reach him was treated as privileged.

On December 4, 1916,[3] the first day of the session, Mr. Claude Kitchin, of North Carolina, offered, as privileged, the following concurrent resolution, which was agreed to by the House:

Resolved by the House of Representatives (the Senate concurring), That such bills and joint, resolutions as passed both Houses at the last session of the Congress and which for want of time were either not presented to the two Houses for the signatures of their presiding officers or, having been thus presented and signed, were not presented to the President for approval be now enrolled as of this session of the Congress, reported for the signatures of the presiding officers of the two Houses, and presented to the President for his approval.

In the Senate, on the recommendation of the Committee on Rules, to which it was referred, consideration of the concurrent resolution was indefinitely postponed.

1087. An instance where the President signed bills after Congress had adjourned for a recess.

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[1] First session Sixty-first Congress, Record, p. 4495.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Second session Sixty-fourth Congress, Record, p. 4.

On December 7, 1920,[1] on the reassembling of Congress after recess, the President of the United States[2] communicated to the House notice that he had approved sundry House bills on June 10 and June 14.

On the same day,[3] in the Senate, a message was received from the President of the United States announcing the approval on June 14 of certain Senate bills.

Neither message announced the disapproval of any bill or resolution.

1088. The President, in the opinion of the Attorney General, has the power to approve bills after adjournment sine die of the Congress which has passed them, but within 10 days (Sundays excepted) after they have been presented to him.

On June 19, 1920,[4] the Attorney General[5] of the United States rendered to the President an opinion, from which the following is an excerpt:

SIR: I have the honor to give you my opinion on the question whether you can approve bills after adjournment sine die of the Congress which has passed them but within 10 days (Sundays excepted) after they have been presented to you.

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It thus appears that while there has been, speaking generally, a uniform practice of the several Presidents not to sign bills after the adjournment of Congress, or rather, to sign all bills of which they approved before Congress adjourned, the right to sign after adjournment was considered an open question in President Monroe's time, was asserted in the most open manner by President Lincoln, was again brought in question before President Cleveland, and was asserted for a second time in Mr. Harrison's term by the Attorney General, and presumably by the President. In considering the proper effect of a contemporaneous and continuous practical exposition of the Constitution a mere refraining from assertion of a right is a very different thing from a positive and actual assertion of it. In the former case failure to act may be due merely to disinclination to assert the right in question unless the situation urgently demands it, while no interests may be actually disturbed by mere inaction in such a manner as to justify a legal protest. In the latter case, however, where the right is asserted and action taken, interests are necessarily affected injuriously or beneficially which ought not subsequently to be disturbed by a reversal of the prior construction.

As to the right of the President to approve bills after adjournment, it may well be that an occasion for the serious consideration of it did not arise until, within comparatively recent times, the amount and far-reaching detail of Federal legislation, and consequently of such legislation passed within the last 10 days of the session became such as to make it a real burden upon the President and a danger to the public interests to require him to sign such bills as he approved during the confusion of the last hours of Congress. In my judgment, therefore, the action of Presidents Lincoln and Harrison in actually approving of bills during an adjournment of Congress outweighs any inference which may be drawn from the mere failure of other Presidents to assert the right claimed.

I have therefore reached the conclusion that, both on principle and by the great weight of authority and precedent, you have the power to approve bills after adjournment sine die of the Congress which had passed them but within 10 days (Sundays excepted) after they have been presented to you.

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[1] Third session Sixty-sixth Congress, Journal, p. 18.

[2] Woodrow Wilson, of New Jersey, President.

[3] Record, p. 24.

[4] Opinions of Attorneys General, Vol. XXXII, p. 225.

[5] A. Mitchell Palmer, of Pennsylvania, Attorney General.

1089. Announcement of approval of a bill by the President is transmitted to the House in which the bill originated.

On August 9, 1921,[1] in the Senate, Mr. Pat Harrison, of Mississippi, as a parliamentary inquiry, asked if a message had been received by the Senate announcing the approval by the President of the United States of the bill (H. R. 6611) to establish a veterans' bureau.

The Presiding Officer[2] said:

The Chair will inform the Senator that the bill having originated in the House, the House will be notified of its approval by the President. That notification would go to the House. It being a House bill, the message will go to the House and not to the Senate.

1090. The return of a bill which has gone to the President of the United States is requested by concurrent resolution, and such resolution when received from the Senate is treated as privileged.

On February 16, 1909,[3] the Speaker laid before the House, as privileged, the following concurrent resolution of the Senate, which was immediately considered and agreed to:

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return to the Senate the bill (S. 6891) for the relief of Maj. G.S. Bingham.

1091. A bill sent to the President but not yet signed by him was recalled by concurrent resolution.

Instance wherein an enrolled bill recalled from the President was afterwards amended.

On April 12, 1924,[4] Mr. Nicholas Longworth, of Ohio, offered, as privileged, the following concurrent resolution, which was agreed to by the House:

Resolved by the House of Representatives (the Senate concurring), That the President of the United States be requested to return to the House of Representatives the bill (H. R. 6815) entitled "An act to authorize a temporary increase in the Coast Guard for law enforcement."

On April 15,[5] the Speaker laid before the House a message from the President of the United States, in response to this resolution, returning the bill requested.

Thereupon Mr. John Q. Tilson, of Connecticut, submitted for immediate consideration the following concurrent resolution, which was agreed to without debate:

Resolved by the House of Representatives (the Senate concurring), That the action of the Speaker of the House of Representatives and of the President pro tempore of the Senate in signing the enrolled bill (H. R. 6815) entitled "An act to authorize a temporary increase of the Coast Guard for law enforcement" be rescinded and that in the reenrollment of the said bill the following amendment be made, viz: On page 2, line 44, after the word "enlisted," insert "warrant."

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[1] First session Sixty-seventh Congress, Record, p. 4745.

[2] Irvine L. Lenroot, of Wisconsin, Presiding Officer.

[3] Second session Sixtieth Congress, Record, p. 2531.

[4] First session Sixty-eighth Congress, Record, p. 6289.

[5] Record, p. 6447.

1092. An error in a bill that has gone to the President of the United States may be corrected by a joint resolution.

On August 28, 1914,[1] Mr. Joseph J. Russell, of Missouri, by unanimous consent, offered the following joint resolution (H. J. Res. 327), which was ordered to be engrossed, read a third time, and passed without debate or division.

Whereas by error in printing H. R. 12045, reported by the House Committee on Invalid Pensions, act approved July 1, 1914 (Private, No. 50), makes the designation of the military service of one David Taylor, late of Company B, Fourth Regiment Michigan Volunteer Infantry, to read "Company B, Fourteenth Regiment Michigan Volunteer Infantry"; Therefore be it

Resolved, etc., That the paragraph in H. R. 12045, approved July 1, 1914 (Private, No. 50), granting an increase of pension to one David Taylor, be corrected and amended so as to read as follows:

"The name of David Taylor, late of Company B, Fourth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving."

1093. The President requested a duplicate copy of a bill, lost after transmission to him, by a message addressed to the House in which the bill originated.

On January 7, 1921,[2] the Vice President laid before the Senate the following message from the President of the United States:

To the Senate:

Senate Joint Resolution No. 191, entitled "Joint resolution to create a Joint Commission on the Reorganization of the Administrative Branch of the Government," having been presented to me on December 17, 1920, and not having been approved by me or returned to the Senate within the 10 days prescribed by the Constitution, has become a law without my approval.

The resolution has in some way been misplaced or destroyed. In order to comply with the provisions of section 204 of the Revised Statutes of the United States that all laws be filed with and published by the Secretary of State, may I ask that a duplicate of Senate Joint Resolution No. 191 be sent to me for that purpose?

Thereupon Mr. James W. Wadsworth, jr., of New York, by unanimous consent, submitted the following concurrent resolution, which was agreed to by the Senate:

Resolved by the Senate (the House of Representatives concurring), That the President of the Senate and the Speaker of the House of Representatives be, and they are hereby, authorized to sign a duplicate copy of the enrolled joint resolution (S. J. Res. 191) to create a Joint Committee on the Reorganization of the Administrative Branch of the Government, and that the Secretary of the Senate be directed to transmit the same to the President of the United States in compliance with his request.

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[1] Second session Sixty-third Congress, Record, p. 14389.

[2] Third session Sixty-sixth Congress, Record p. 1086.

Chapter CCXIX.[1]

BILLS RETURNED WITHOUT THE PRESIDENT'S APPROVAL.

1. Reception of veto message in House. Sections 1094, 1095.
2. Privilege of motions relating to a veto message. Sections 1096–1112.
3. Consideration of veto message in the House. Sections 1113–1115.

1094. While it is the rule that a bill returned with the objections of the President shall be read and considered at once, it may not be laid before the House in the absence of a quorum.

On August 18, 1919,[2] Mr. Otis Wingo, of Arkansas, submitted a parliamentary inquiry as to when the message, returning with the President's objections the bill (H. R. 3854) providing for the repeal of the daylight saving act, and received on August 15, had been laid before the House.

The Speaker[3] explained that the bill had been received on the last legislative day on which the House was in session; that a point of no quorum was made before the message could be taken from the Speaker's table, and it having been ascertained that a quorum was not present, and adjournment being taken before a quorum appeared, the message could not be laid before the House on that day.

1095. Reconsideration of a bill returned with the objections of the President is by constitutional mandate and takes precedence of business in order on Calendar Wednesday.

On August 14, 1912,[4] the Speaker laid before the House a message from the President of the United States transmitting his objections to the bill (H. R. 18642) amending the tariff act.

The message having been read, Mr. Oscar W. Underwood, of Alabama, moved the passage of the bill, the objections of the President notwithstanding.

Mr. James R. Mann, of Illinois, made the point of order that the motion was not in order on this day, it being Calendar Wednesday.

The Speaker[5] overruled the point of order.

1096. A bill returned with the President's objections is privileged when reported by the committee to which referred.

On February 24, 1921,[6] Mr. Homer P. Snyder, of New York, from the Committee on Indian Affairs, reported back, as privileged, the bill (H. R. 517) to provide for

[1] Supplementary to Chapter XCIII.

[2] First session Sixty-sixth Congress, Record, p. 3954.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] Second session Sixty-second Congress, Journal, p. 1049; Record, p. 10936.

[5] Champ Clark, of Missouri, Speaker.

[6] Third session Sixty-sixth Congress, Record, p. 3791.

the drainage of certain Indian lands, which had been returned with the President's objections and referred to that committee.

Mr. Joseph Walsh, of Massachusetts, raised a question of order as to the privilege of the bill.

The Speaker [1] overruled the point of order.

1097. When a bill returned with the President's objections is called up the question of reconsideration is considered as pending and a motion to reconsider is not required.

On February 19, 1913,[2] Mr. John L. Burnett, of Alabama, as a question of privilege, called up the bill (S. 3175) to regulate immigration, which had been returned with the objections of the President, and moved that the House proceed to reconsider the bill.

Mr. James R. Mann, of Illinois, objected that the motion was not in proper form.

The Speaker [3] held that a motion was not required, as the question of reconsideration was considered as pending.

1098. On August 19, 1919,[4] a message from the President of the United States, returning without his approval the bill (H. R. 3854), "An act for the repeal of the daylight saving law," was taken up in the House. The message having been read, debate proceeded without motion to reconsider until Mr. John J. Esch, of Wisconsin, demanded the previous question, which was agreed to, yeas 225, nays 34.

1099. On June 4, 1920,[5] the Speaker laid before the House the message from the President giving his reasons for withholding his approval from the bill (H. R. 9783), the Budget bill.

No motion for the disposition of the bill being offered, the Speaker [1] recognized Mr. James W. Good, of Iowa, who, after debating the bill at length, moved the previous question.

1100. While bills returned with the President's objections are taken up for consideration on the day received, the time of the day of laying the message before the House is within the discretion of the Speaker.

When a vetoed bill is laid before the House the question of reconsideration is considered as pending, and a motion to reconsider is not required.

A veto message having been read, only three motions are in order: to lay on the table, to postpone to a day certain, or to refer, which motions take precedence in the order named.

On July 11, 1932,[6] a message was received from the President returning to the House without his approval the bill (H. R. 12445) to relieve destitution, to broaden

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Third session Sixty-second Congress, Record, p. 3411.

[3] Champ Clark, of Missouri, Speaker.

[4] First session Sixty-sixth Congress, Record, p. 3981.

[5] Second session Sixty-sixth Congress, Record, p. 8613.

[6] First session Seventy-second Congress, Record, p. 15040.

the lending power of the Reconstruction Finance Corporation, and to create employment by authorizing and expediting a public-works program and providing a method of financing such program.

Mr. Bertrand H. Snell, of New York, addressing an inquiry to the Chair, asked when the message would be laid before the House.

The Speaker [1] replied:

The Chair does not know. It has not yet been opened.

Subsequently on the same day, the Speaker pro tempore [2] laid the message before the House. Following the reading of the message, Mr. Henry T. Rainey, of Illinois, moved that the message and the bill be referred to the Committee on Ways and Means, and, after brief debate, demanded the previous question on the motion to refer.

Mr. Carl R. Chindblom, of Illinois, made the point of order that the motion to refer was not admissible; that it was the duty of the Speaker to put the question of reconsideration; and demanded recognition to move the previous question on the question of reconsideration.

Mr. Clarence Cannon, of Missouri, suggested:

Mr. Speaker, under the practice of the House, the question on a veto message is considered as pending, and there are three motions that are preferential. Any Member securing recognition for the purpose may move to postpone, or may move to refer, or may move to lay on the table.

Of course, a motion for the previous question is in order; but the gentleman would not be entitled to prior recognition over the Member in charge of the bill.

The gentleman from Illinois, Mr. Rainey, representing the Committee on Ways and Means, is entitled to prior recognition to move to refer, and on that motion he also is entitled to prior recognition to demand the previous question. The motion to refer is preferential; the motion has been made by the Member in charge, and the motion is therefore before the House.

The Speaker pro tempore ruled:

The Chair thinks the gentleman from Missouri has stated the matter correctly. The Chair thinks that under the rules of the House, the gentleman from Illinois has a right to make a preferential motion to refer to a committee. On that motion the gentleman has the right to control one hour of time or the right to move the previous question. The gentleman has been recognized and has now moved the previous question.

1101. The constitutional mandate that the House "shall proceed to reconsider" a vetoed bill has been held not to preclude a motion to postpone consideration to a day certain.

On August 18, 1919,[3] the President returned to the House, with his objections, the bill (H. R. 3854) for the repeal of the daylight saving law.

The message being read, Mr. Edward J. King, of Illinois, proposed to offer a motion to postpone consideration until the following Tuesday.

The Speaker [4] held that the motion was in order if the previous question was not ordered, but that the Member in charge of the bill was entitled to prior recognition to move the previous question.

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[1] John N. Garner, of Texas, Speaker.

[2] Clifton A. Woodrum, of Virginia, Speaker pro tempore.

[3] Record, p. 3954.

[4] Frederick R. Gillett, of Massachusetts, Speaker.

1102. While the ordinary motion to refer may be applied to a vetoed bill, it is not in order to move to commit it pending the demand for the previous question or after the previous question is ordered on the constitutional question of reconsideration.

On August 19, 1919,[1] the Speaker laid before the House the message of the President returning the bill of the House repealing the daylight-saving law.

On motion of Mr. John J. Esch, of Wisconsin, the previous question was ordered on the question of reconsideration.

Mr. Otis Wingo, of Arkansas, moved to refer the bill, with accompanying papers, to the Committee on Interstate and Foreign Commerce.

The Speaker[2] held that the motion, although otherwise admissible, was not in order after the previous question had been ordered.

On an appeal by Mr. Wingo, the decision of the Chair was sustained by a vote of yeas 214, nays 5.

1103. A veto message received from the President supersedes the regular order of business, but immediate consideration may be deferred, at the discretion of the Speaker, until later on the same day.

The reading only of a veto message is mandatory on the day on which received, and subsequent proceedings in reconsideration of the bill may be postponed by the House to a future day.

Consideration of a bill similar to one returned by the President without approval, but conforming to objections voiced by the President in the accompanying message, is not in order pending reconsideration of the vetoed bill.

Form of motion to reconsider a bill returned by the President with objections.

A vetoed bill having been rejected by the House, the message was referred.

On June 29, 1918,[3] during the consideration of the joint resolution (H. J. Res. 303) extending time for Federal control of railroads, the Speaker[4] interrupted debate and laid before the House a message from the President returning with his veto the Post Office appropriation bill.

Mr. Joseph G. Cannon, of Illinois, asked if the message could be withheld temporarily until the pending resolution was disposed of.

The Speaker ruled that the message could be laid before the House at any time during the day on which received, within the discretion of the Speaker, and withdrew it pending disposition of the resolution.

In response to a parliamentary inquiry from Mr. Halvor Steenerson, of Minnesota, the Speaker further held that the only action mandatory under the Constitu-

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[1] First session Sixty-sixth Congress, Record, p. 3981.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-fifth Congress, Record, p. 8515.

[4] Champ Clark, of Missouri, Speaker.

tion on the day received was the reading of the message, and further proceedings in reconsideration of the bill were at the pleasure of the House and could be had—

to-day, next week, or next year. It has been ruled over and over again. It does not mean you shall immediately take it up. The Chair has read that section of the Constitution until he knows it by heart, and has read all the decisions. It may lie on the Speaker's table if they want or go to the committee if they want. It need not be reported back if the committee does not want to do so.

Mr. Joseph Walsh, of Massachusetts, referring to a proposition to introduce and consider immediately a bill similar in all respects to the vetoed bill, with the exception that provisions objected to by the President had been modified to conform to his views, asked if such modified bill could be considered before the vote on reconsideration.

The Speaker held that some action must be taken with respect to the vetoed bill before a bill of similar tenor could be considered.

The pending resolution having been disposed of, the Speaker again laid the message before the House. Following its reading Mr. Steenerson offered this motion:

I move that the House on reconsideration do agree to pass the bill notwithstanding the objections of the President. And on that motion I demand the previous question.

The question being taken, and two-thirds failing to vote in the affirmative, the Speaker announced that the House, on reconsideration, determined not to pass the bill, the objections of the President to the contrary notwithstanding.

The following motion by Mr. John A. Moon, of Tennessee, was then agreed to:

Mr. Speaker, I move that the President's veto message be referred to the Committee on the Post Office and Post Roads.

1104. While the specific time at which a message shall be laid before the House is within the Speaker's discretion, it may not be deferred to a day subsequent except by order of the House.

On August 18, 1919,[1] Mr. Otis Wingo, of Arkansas, as a parliamentary inquiry, asked what disposition had been made of the message transmitting, with the President's objections, the bill (H. R. 3854) to repeal the daylight-saving act.

The Speaker[2] said:

It is on the Speaker's table. It has been thought wise not to take that up until to-morrow, and consequently the Chair thought it better not to lay it before the House at this time, so that the vote might be had upon it to-morrow.

Mr. Wingo made the point of order that reconsideration could not be postponed to a day subsequent except by order of the House.

The Speaker sustained the point of order, and on motion of Mr. John N. Garner, of Texas, by unanimous consent, reconsideration of the bill was postponed until the following legislative day.

1105. A veto message from the President is read before disposition is considered.

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[1] First session Sixty-Sixth Congress, Record, p. 3955.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

The constitutional mandate that the House "shall proceed to reconsider" a vetoed bill is complied with by laying it on the table, referring it to a committee, postponing consideration to a day certain, or immediately voting on reconsideration.

On January 29, 1917,[1] Mr. John L. Burnett, of Alabama, asked that the bill (H. R. 10384) to regulate immigration, received from the President with his objections, lie on the table until the following Thursday morning.

The Speaker[2] held that no proposal for disposition of the bill was in order until the message had been read.

The message having been read, Mr. William H. Stafford, of Wisconsin, raised a question of order against postponement.

The Speaker said:

> The gentleman from Alabama asks unanimous consent that this bill and message lie on the Speaker's table. That is his request. And his notification to the House is that he is going to call it up next Thursday—I suppose just after the Journal is read. Of course, everybody understands that frequently it would be extremely inconvenient, if not impossible, to immediately consider a veto message; and the Constitution does not say "immediately," anyhow. The practice has been to dispose of it in one of three ways. The first one is to let it lie on the Speaker's table and call it up any time you get ready. The other one is to refer it to a committee. The gentleman asks that it lie on the table. Is there objection?

1106. A bill returned with the President's objections, when called up for reconsideration, may be read by unanimous consent only.

On April 7, 1908,[3] the President returned, with his objections, the bill of the House transferring Commander William Wilmot White from the retired to the active list of the Navy.

The message having been read, Mr. James R. Mann, of Illinois, asked that the vetoed bill be also read.

The Speaker[4] held that the bill could be read by unanimous consent, and submitted the question to the House.

1107. On February 21, 1913,[5] the Speaker,[2] addressing the House, and referring to a decision rendered on February 19,[6] said:

> The Chair desires to make a statement to the House about a ruling he made the other day. When the question was on passing the immigration bill over the President's veto the Chair ordered the Clerk to read the bill. The gentleman from Wisconsin, Mr. Lenroot, raised the point of order that it was not necessary to read the bill. The Chair overruled the point of order and had the bill read.
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> On mature reflection the Chair has concluded that his ruling was wrong, and he makes this statement now so that that ruling will not be taken as a precedent, either by the present occupant of the chair or by any of his successors in office. The Chair thinks the matter ought to be straightened out while it is fresh in the memory of the House.

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[1] Second session Sixty-fourth Congress, Record, p. 2213.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixtieth Congress, Record, p. 4503.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] Third session Sixty-second Congress, Record, p. 3622.

[6] Record, p. 3412.

1108. Accompanying documents, although referred to in a message from the President, are not read or entered on the Journal.

A motion to refer to a committee a bill returned with the objections of the President is in order under the practice of the House.

A committee to which was referred a veto message from the President made no report thereon.

On November 5, 1919,[1] the Speaker laid before the House the following message received from the President of the United States:

TO THE HOUSE OF REPRESENTATIVES:

I return herewith without my approval H. R. 8272, entitled "An act to restore Harry Graham, captain of Infantry, to his former position on lineal list of captains of Infantry." I am constrained to take this action for the reasons set forth in the accompanying letter from the Secretary of War.

WOODROW WILSON.

THE WHITE HOUSE,
5 November, 1919.

Mr. Otis Wingo, of Arkansas, requested the reading of the accompanying letter, referred to in the message.

The Speaker[2] said:

If the House wants it, of course, it will undoubtedly give unanimous consent to have the letter read. I think the gentleman will recall that very often documents are sent. Of course, the President could have made it a part of his veto if he wished, but he did not, and the Chair does not think it is a part of the message. That is a matter for the President to decide. The President in his message could have inserted the letter of the Secretary. The gentleman from Arkansas asks unanimous consent that the letter be read. Is there objection? [After a pause.] The Chair hears none.

In response to a further inquiry by Mr. Joseph Walsh, of Massachusetts, the Speaker held that the letter, not being a part of the message, would not be entered on the Journal of the House.

On motion of Mr. Julius Kahn, of California, the message, with accompanying documents, was referred to the Committee on Military Affairs, which made no report thereon.

1109. The House having adjourned after the reading of a veto message and before voting on reconsideration, the bill came up as unfinished business on the next legislative day.

A veto message received in the House by way of the Senate is considered as if received directly from the President and supersedes the regular order of business.

On January 3, 1921,[3] the Speaker laid before the House a message from the Senate transmitting, with the objections of the President, the joint resolution (S. J. Res. 212) for the relief of agriculture, and announcing its passage by the Senate on reconsideration.

Following the reading of the message, the House adjourned before a vote could be had on the question of reconsideration.

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[1] First session Sixty sixth Congress, Record, p. 7992.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Third session Sixth-sixth Congress, Record, p. 915.

On January 4, immediately after the approval of the Journal, the Speaker[1] announced:

The unfinished business when the House adjourned yesterday was the reconsideration of Senate joint resolution 212 notwithstanding the objections of the President. The question before the House is, Will the House on reconsideration pass the joint resolution the objections of the President to the contrary notwithstanding?

1110. The Constitution provides that the vote on reconsideration of a bill returned with the President's objections shall be determined by yeas and nays.

On October 27, 1919,[2] the House proceeded to the reconsideration of the bill (H. R. 6810), the prohibition enforcement bill, returned without the President's approval.

The previous question having been ordered, the Speaker[1] announced that the Constitution required a vote by yeas and nays, and directed the Clerk to call the roll.

1111. The two-thirds vote required to pass a bill notwithstanding the objections of the President is two-thirds of the Members voting and not two-thirds of those present.

An instance in which the Speaker asked unanimous consent to elaborate on an opinion previously rendered.

On August 13, 1912,[3] the question being put on reconsideration of the bill (H. R. 22195) reducing duties on wool, which had been returned with the President's objections, there were yeas 174, nays 80, answering present 10.

Mr. Augustus P. Gardner, of Massachusetts, made the point of order that 264 Members had voted, and, as the 174 Members voting in the affirmative did not constitute two-thirds, the bill was not passed.

The Speaker[4] held that the 10 Members answering present had not voted and were not to be counted, and the number voting was, therefore, 254 and not 264, and 174 constituting two-thirds of the Members voting the House had determined on reconsideration to pass the bill, the objections of the President to the contrary notwithstanding.

On the following day,[5] the Speaker submitted the following request for unanimous consent:

The Speaker is not certain whether he should ask unanimous consent to read a carefully prepared opinion on a parliamentary question on a day subsequent to rendering a brief opinion on that question, but, to be on the safe side, he will do so.

The Chair has a precedent for that. Mr. Speaker Cannon did it once. Is there objection?

There being no objection, the Speaker said:

The Chair thinks that the question which was decided yesterday is of such far-reaching importance that he owes it to himself, as well as to the House and to future Speakers, to restate his opinion after an examination of the authorities. The parliamentary question in issue was

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixty-sixth Congress, Record, p. 7610.

[3] Second session Sixty-second Congress, Record, p. 10834.

[4] Champ Clark, of Missouri, Speaker.

[5] Record, p. 10943.

this: On a roll call on passing a bill over the President's veto, in determining whether two-thirds have voted for it, should those answering "present" be taken into consideration or excluded therefrom?

The importance of the question demanded and has received closest examination. The situation is this: Touching the passage of a bill over the President's veto or the attempt to pass it, the constitutional provision is as follows:

"Every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States; if he approves, he shall sign it; but if not, he shall return it with his objections to that House in which it shall have originated"—

In this case the House of Representatives—"who shall enter the objections at large on their Journal and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the Journal of each House respectively."

The first point in the excerpt from the Constitution which attracts attention in this case is "if after reconsideration two-thirds of that House," and so forth. There have been all sorts of contentions about what constitutes "the House." Some gentlemen of eminent ability have contended it means all the Members elect and qualified; others have contended it means simply a quorum, and several decisions, not on this particular question of passing bills over the President's vetoes, but on questions practically involving the same question as to the count, have been rendered, but finally it has come to be accepted that "the House" does not mean all the Members elected and qualified, but only a quorum. The full membership of the present House is 394, a quorum of which is 198; but there are four vacancies, reducing the membership to 390, of which 196 constitutes a quorum. That is proposition No. 1.

The second constitutional proposition is stated in these words:

"But in all such cases the votes of both Houses shall be determined by the yeas and nays"—

That is, in veto cases—

"And the names of the persons voting for and against the bill shall be entered on the Journal of each House, respectively."

The Chair answered the inquiry of the gentleman from Illinois, Mr. Cannon, inadvisedly, that the names of those present ought to be in the Journal. The Constitution does not require any such thing. The Chair has investigated that matter since, and it is entirely immaterial whether the names of the 10 gentlemen who answered "present" go in the Journal or not. The Constitution does not provide for a Member voting "present," but the rules of the House, in order to eke out a quorum, have provided that they can vote "present." They have to answer "aye" or "nay" on the roll call in order to be counted on passing a bill over the President's veto. That is the requirement of the Constitution, and if the contention were on a proposition which required only a majority it would be the same way. In fact, that is one unvarying rule of procedure whenever the roll is called on any proposition. The Chair announces: "So many 'ayes,' so many 'nays,' so many 'present'; the 'ayes'—or 'nays,' as the case may be—have it." Those voting "present" are disregarded, except for the sole purpose of making a quorum.

In this case 174 Members voted "aye," 80 voted "no," and 10 answered "present"; 174 plus 80 equal 254, a quorum, without counting the 10 who answered "present." One hundred and seventy-four is more than two-thirds of 254.

These 10 gentlemen were here simply for the purpose of making a quorum. It is clear that to count them on this vote would be to count them in the negative, and the Chair does not believe that any such contention as that is tenable. The Chair holds that, if there is a quorum present on a roll call to determine whether the House will agree to pass a bill over the President's veto. and two-thirds of those voting vote "yea," that is sufficient and is a compliance with the constitutional requirement.

To show that the view expressed by the Chair is correct, there is a fact dehors the record which tends to clarify the situation. Of the 10 Members who answered "present," 7 were Democrats and 3 Republicans. Of course, every one of the 7 Democrats, if not paired, would have voted "aye"; so that to have counted in the 7 Democrats who answered "present" in determining the two-thirds would have put them down as voting "no," precisely opposite to the way they would have voted, which amounts to a reductio ad absurdum.

In conclusion, the Speaker referred to a similar decision [1] by Mr. Speaker Reed, and cited the opinion of the Supreme Court of the United States in the case of United States *v.* Ballin.[2]

1112. Reconsideration of a bill returned with the President's objections may be postponed to a day certain by a majority vote.

On October 27, 1919,[3] the Speaker laid before the House the message of the President returning without approval the bill (H. R. 6810) to prohibit the manufacture and sale of intoxicating beverages.

Following the reading of the message, Mr. Andrew J. Volstead, of Minnesota, moved that reconsideration of the bill be postponed until the next Thursday.

The question being taken, it was decided in the negative, yeas 83, nays 136.

1113. On May 15, 1924,[4] the message vetoing the bill (H. R. 7959) to provide adjusted compensation for veterans of the World War was read, when Mr. Nicholas Longworth, of Ohio, moved that reconsideration of the bill be postponed until the following Monday.

Mr. Thomas L. Blanton, of Texas, raised a question of order as to the admissibility of the motion.

The Speaker [5] said:

The situation seems clear to the Chair. The gentleman from Ohio has made a motion to postpone to a day certain action on the President's veto. Now, the Constitution provides that "the House shall proceed to consider it." If that meant that the House should proceed immediately to vote upon it, then the action of the House for a great many years has been entirely wrong, because the House has repeatedly entertained and voted on, motions to refer it to a committee and to postpone. It seems to the Chair that the language "the House shall proceed to consider it" means that the House shall immediately proceed to consider it under the rules of the House, and that the ordinary motions under the rules of the House—to refer, to commit, or to postpone to a day certain—are in order. One gentleman suggested that such a construction put in the hands of one gentleman to determine what the House shall do; but on the contrary, it leaves it entirely in the hands of the House. If the House does not like the motion that is made, it can vote it down and the House can have its will. It seems to the Chair that is an exact compliance with the Constitution and is also the action which allows the House entire freedom of action. So the Chair overrules the point of order.

1114. A motion to refer a vetoed bill is allowable within the constitutional mandate that the House "shall proceed to reconsider."

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[1] Section 7027 of Hinds' Precedents.

[2] 144 U. S., p. 1.

[3] First session Sixty-sixth Congress, Record, p. 7607.

[4] First session Sixty-eighth Congress, Record, p. 8663.

[5] Frederick H. Gillett, of Massachusetts, Speaker.

Instance wherein the committee to which a vetoed bill was referred made no report thereon.

The House having referred a vetoed bill, a new bill, identical in all respects with the exception of a provision objected to by the President, was introduced and passed under suspension of the rules.

On August 18, 1916,[1] when a message from the President returning, with objections, the bill (H.R. 16460), the Army appropriation bill, was read, Mr. James Hay, of Virginia, moved that the message be referred to the Committee on Military Affairs.

The motion was agreed to, and the Committee made no report thereon.

On August 22,[2] on motion of Mr. Hay, the rules were suspended and the same bill, with the provision objected to by the President omitted, was passed as H.R. 17498.

1115. The pocket-veto case decided by the Supreme Court in 1929.

A bill passed by both Houses during an interim session and presented to the President less than 10 days before adjournment of the session, but neither signed by the President nor returned without his signature, does not become a law.

The phrase "within 10 days" in the constitutional provision fixing the time within which bills shall be returned by the President, refers not to legislative days but to calendar days.

The term "adjournment" as used in the constitutional provision does not refer exclusively to the final adjournment of the Congress, but includes the adjournment of an intermediate session as well.

The "House" to which a bill is to be returned by the President is a House in session with authority to receive the return and enter the President's objections on its Journal and no return can be received when the House is not in session.

No officer or agent of either House has authority to receive returned bills or messages from the President for delivery at the next session.

On June 23, 1926,[3] the bill (S. 3185) authorizing certain Indian tribes to present their claims to the Court of Claims was transmitted to the President for his approval.

The President failed to sign the bill or to return it to the Senate without his signature prior to the adjournment of the session on July 3, 1926.

The House took the view[4] that the term "adjournment "in the constitutional provision referred exclusively to the adjournment of the final session of Congress and

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[1] First session Sixty-fourth Congress, Record, p. 12844.

[2] Record, p. 12983.

[3] First session Sixty-ninth Congress, Record, p. 11930.

[4] Second session Sixty-ninth Congress, House Report No. 2054; Record, p. 4937; first session Seventieth Congress, Record, p. 395.

not to the close of the first session, and therefore that the bill had become a law through the failure of the President to return it within 10 days.

The Court of Claims, however, dismissed a petition filed under the proposed law, on the ground that the bill passed by Congress, upon which jurisdiction was dependent, had not become a law, and the case was taken to the Supreme Court under a writ of certiorari.

At the October term of 1928,[1] Mr. Justice Sanford delivered the opinion of the court.

The question presented to the court is set out in the opinion as follows:

The clause of the Constitution here in question reads as follows:

"Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two-thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a Law. . . . *If any bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law*."

The specific question here presented is whether, within the meaning of the last sentence which we have italicized Congress by the adjournment on July 3 prevented the President from returning the bill within 10 days, Sundays excepted, after it had been presented to him. If the adjournment did not prevent him from returning the bill within the prescribed time, it became a law without his signature; but if the adjournment prevented him from so doing, it did not become a law.

The court finds that a bill so retained by the President does not become a law.

The use of the term "pocket veto" is misleading in its implications in that it suggests that the failure of the bill in such case is necessarily due to the disapproval of the President and the intentional withholding of the bill from reconsideration. The Constitution in giving the President a qualified negative over legislation—commonly called a veto—intrusts him with an authority and imposes upon him an obligation that are of the highest importance, in the execution of which it is made his duty not only to sign bills that he approves in order that they may become law, but to return bills that he disapproves, with his objections, in order that they may be reconsidered by Congress. The faithful and effective exercise of this momentous duty necessarily requires time in which the President may carefully examine and consider a bill and determine, after due deliberation, whether he should approve or disapprove it, and, if he disapproves it, formulate his objections for the consideration of Congress. To that end a specified time is given, after the bill has been presented to him, in which he may examine its provisions and either approve it or return it, not approved, for reconsideration. The power thus conferred upon the President can not be narrowed or cut down by Congress, nor the time within which it is to be exercised lessened, directly or indirectly. And it is just as essential a part of the constitutional provisions, guarding against ill-considered and unwise legislation that the President, on his part, should have the full time allowed him for determining whether he should approve or disapprove a bill and, if disapproved, for adequately formulating the objections that should be considered by Congress as it is that Congress, on its part, should have an opportunity to repass the bill over his objections.

It will frequently happen—especially when many bills are presented to the President near the close of a session, some of which are complicated or deal with questions of great moment—that when Congress adjourns before the time allowed for his consideration and action has expired,

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[1] Okanogan Indian Tribes *v.* United States, 279 U.S. 655.

he will not have been able to determine whether some of them should be approved or disapproved, or, if disapproved, to formulate adequately the objections which should receive the consideration of Congress. And it is plain that when the adjournment of Congress prevents the return of a bill within the allotted time, the failure of the bill to become a law can not properly be ascribed to the disapproval of the President—who presumably would have returned it before the adjournment if there had been sufficient time in which to complete his consideration and take such action—but is attributable solely to the action of Congress in adjourning before the time allowed the President for returning the bill had expired.

The term "adjournment" is construed to admit adjournment of intermediate sessions as well as final adjournment.

Nor can we agree with the argument that the word "adjournment" as used in the constitutional provision refers only to the final adjournment of the Congress. The word "adjournment" is not qualified by the word "final"; and there is nothing in the context which warrants the insertion of such a limitation. On the contrary, the fact that the word "adjournment" as used in the Constitution is not limited to a final adjournment is shown by the first clause in section 5 of Article I, which provides that a smaller number than a majority of each House may "adjourn" from day to day, and by the fourth clause of the same article, which provides that neither House, during the session of Congress, shall, without the consent of the other, "adjourn" for more than three days. And the Standing Rules of the Senate refer specifically to motions to adjourn "to a day certain" and the Rules of the House of Representatives to an "adjournment" at the end of one session.

The phrase "within 10 days" is interpreted as referring to calendar days and not legislative days.

There is plainly no warrant for adopting the suggestion of counsel for the petitioners that the phrase "within 10 days (Sundays excepted)" may be construed as meaning not calendar days but "legislative days"; that is, days during which Congress is in legislative session; thereby excluding all calendar days which are not also legislative days from the computation of the period allowed the President for returning a bill. The words used in the Constitution are to be taken in their natural and obvious sense and are to be given the meaning they have in common use unless there are very strong reasons to the contrary. The word "days," when not qualified, means in ordinary and common usage calendar days. This is obviously the meaning in which it is used in the constitutional provisions and is emphasized by the fact that "Sundays" are excepted. There is nothing whatever to justify changing this meaning by inserting the word "legislative" as a qualifying adjective. And no President or Congress has ever suggested that the President has 10 "legislative days" in which to consider and return a bill, or proceeded upon that theory.

The contention that a message could be received by the Congress during recess through the agency of an official of one of the Houses is overruled.

We find no substantial basis for the suggestion that although the House in which the bill originated is not in session the bill may nevertheless be returned, consistently with the constitutional mandate, by delivering it, with the President's objections, to an officer or agent of the House, for subsequent delivery to the House when it resumes its sittings at the next session, with the same force and effect as if the bill had been returned to the House on the day when it was delivered to such officer or agent. Aside from the fact that Congress has never enacted any statute authorizing any officer or agent of either House to receive for it bills returned by the President during its adjournment, and that there is no rule to that effect in either House, the delivery of the bill to such officer or agent, even if authorized by Congress itself, would not comply with the constitutional mandate. The House, not having been in session when the bill was delivered to the officer or agent, could neither have received the bill and objections at that time, nor have entered the objections upon its journal, nor have proceeded to reconsider the bill, as the Constitution requires; and there is nothing in the Constitution which authorizes either House

to make a nune pro tune record of the return of a bill as of a date on which it had not, in fact, been returned. Manifestly it was not intended that, instead of returning the bill to the House itself, as required by the constitutional provision, the President should be authorized to deliver it, during an adjournment of the House, to some individual officer or agent not authorized to make any legislative record of its delivery, who should hold it in his own hands for days, weeks, or perhaps months, not only leaving open possible questions as to the date on which it had been delivered to him, or whether it had in fact been delivered to him at all, but keeping the bill in the meantime in a state of suspended animation until the House resumes its sittings, with no certain knowledge on the part of the public as to whether it had or had not been seasonably delivered, and necessarily causing delay in its reconsideration, which the Constitution evidently intended to avoid. In short, it was plainly the object of the constitutional provision that there should be a timely return of the bill, which should not only be a matter of official record definitely shown by the Journal of the House itself, giving public, certain, and prompt knowledge as to the status of the bill, but should enable Congress to proceed immediately with its reconsideration; and that the return of the bill should be an actual and public return to the House itself and not a fictitious return by a delivery of the bill to some individual which could be given a retroactive effect at a later date when the time for the return of the bill to the House had expired.

Chapter CCXX.[1]

GENERAL APPROPRIATION BILLS.[1]

1116. Enumeration of the General Appropriation Bills.

The general appropriation bills are not enumerated or defined by the rules. The Committee on Appropriations, having sole jurisdiction of appropriations for support of the Government, may report for that purpose such general appropriation bills as, in its judgment, best expedite the work of the committee and the House.

Formerly eight separate committees were authorized to report appropriations and the practice had become established of providing for support of the Government through 13[2] annual general appropriation bills and a varying number of deficiency appropriation bills reported from the eight committees.

But with the introduction of the budget system[3] in 1921,[4] and the coincident change in the rules of the House and Senate concentrating the power to report appropriations in one committee, the number and scope of the general appropriation bills were materially changed.

The nature of this revision is shown in the following table inserted in the Record by Mr. Martin B. Madden, of Illinois, on June 30, 1922:[5]

FORMER BILLS	NEW BILLS
1. Agricultural.	1. Agricultural Department.
2. Army.	2. Commerce and Labor Departments.
3. Diplomatic and consular.	3. District of Columbia.
4. District of Columbia.	4. Executive Office and independent offices
5. Fortification.	commissions, etc.
6. Indian.	5. Interior Department.
7. Legislative, executive, and judicial.	6. Legislative branch.
8. Navy.	7. Navy Department.
9. Pension.	8. Post Office Department.
10. Post Office.	9. State and Justice Departments.
11. River and harbor.	10. Treasury Department.
12. Sundry civil.	11. War Department.
13. Deficiency[6]	12. Deficiency.[6]

[1] Supplementary to Chapter XCIV.

[2] The Committee on Appropriations, in the third session of the Sixty-sixth Congress, consolidated the Military Academy appropriation bill with the Army appropriation bill, thus reducing the number of annual supply bills from 13 to 12.

[3] U.S. Code, title 31, sections 1, 2, 11; title 24, sections 123, 244.

[4] The concentration of appropriating authority in one committee of the House had been previously effected by an amendment to the rules adopted June 1, 1920, and effective July 1 of that year (second session Sixty-sixth Congress, Record, p. 8108).

[5] Second session Sixty-seventh Congress, Record, p. 9852.

[6] The deficiency bills, which are not general appropriation bills, vary in number from two to four for each session of Congress.

The new bills are composed of items for each department or establishment heretofore distributed in several bills, as follows:

1. Agricultural: Items for that department formerly in the Agricultural and sundry civil bills.

2. Commerce and Labor: Items for those departments formerly in the sundry civil and legislative, executive, and judicial bills.

3. District of Columbia: Items formerly carried in the District of Columbia bill and all other items in the sundry civil and legislative, executive, and judicial bills chargeable in part against the revenues of the District of Columbia.

4. Executive Office and independent offices: Items formerly carried for these purposes in the sundry civil and legislative, executive, and judicial bills.

5. Interior Department: Items for this department formerly carried in the sundry civil, legislative, executive, and judicial, and pension bills.

6. Legislative branch: Items for the Senate, House, joint congressional committees and commissions, Capitol police, legislative drafting service, Architect of the Capitol, Library of Congress, Botanic Garden, and Government Printing Office (exclusive of printing and binding for the executive departments), formerly in sundry civil and legislative, executive, and judicial bills.

7. Navy: Items for the Navy formerly carried in the Navy bill and for the Navy Department proper, formerly in the legislative, executive, and judicial bill.

8. Post Office: Items for the postal service in the field, formerly carried in the Post Office bill, and for the Post Office Department proper in Washington, formerly in the legislative, executive, and judicial, and sundry civil bills.

9. State and Justice: Items for those departments and the courts formerly carried in the sundry civil, legislative, executive, and judicial, and diplomatic and consular bills.

10. Treasury: Items for the Treasury Department formerly in the sundry civil and legislative, executive, and judicial bills.

11. War: Items for the War Department formerly in the Army, fortification, legislative, executive, and judicial, river and harbor, and sundry civil bills. The bill is divided into two titles, namely, one title for the military activities and expenses directly related thereto and the other for the nonmilitary activities.

The number of appropriation bills was further reduced in the Sixty-eighth Congress when the appropriations for the State and Justice Departments and the Commerce and Labor Departments were reported in one bill known as the State, Justice, Commerce and Labor bill, and the appropriations for Treasury and Post Office Departments were reported in one bill known as the Treasury and Post Office bill.

Under this system the number of regular annual general appropriation bills ordinarily is 9, supplemented by one or more deficiency appropriation bills, all of which are reported by the Committee on Appropriations.

In order to systematize and facilitate consideration of estimates and the preparation of these bills, the Committee on Appropriations apportions its members to 9 subcommittees,[1] each of which has charge of one of the bills and reports it to the committee en banc, by which, after consideration and adoption, the bills are reported to the House.

The War Department bill consists of two sections, the military section and the nonmilitary section, the latter of which includes appropriations for rivers and harbors formerly reported as a separate bill. Originally the river and harbor bill was not

[1] Each of nine of the subcommittees consists of five Members and has charge of one of the nine general appropriation bills. The ninth, consisting of ten Members, has charge of the deficiency bills. A majority of the Members of the Committee on Appropriation serve on two subcommittees; newer Members serve on one; Members of longer service have sometimes been assigned to three.

one of the general appropriation bills,[1] but beginning with the Sixty-sixth Congress [2] it was classed as a general appropriation bill, and so remained until merged with the War Department bill under the revision of the annual supply bills by the Committee on Appropriations.

1117. A discussion of procedure ordinarily followed in the consideration and passage of a general appropriation bill.—On May 26, 1928,[3] Mr. Guy U. Hardy, of Colorado, under a leave to extend remarks in the Record, included the following:

The Appropriations Committee meets in advance of the convening of Congress. It has before it the Budget recommended by the President, reported in a book of over 1,500 pages, containing the items recommended for each department in detail.

The Appropriations Committee is made up of 35 members, 21 of the majority and 14 of the minority and is divided up in subcommittees for the consideration of the different bills. There is a subcommittee for the Treasury and Post Office Departments; subcommittee for the Interior Department, the War Department, the Navy Department, Agricultural Department, and other departments. Six members serve on the first-named and five members on each of the others.

Skeleton bills are printed for each subcommittee. These bills show the Budget estimate for the current year for each item, the amount recommended by the Budget, and the amount actually appropriated by Congress for each of the preceding six years.

These different bills are referred to the appropriate subcommittees for consideration, and the subcommittees begin hearings that may cover several weeks each.

We will follow the Navy bill through. The subcommittee on the Navy is made up of five members—three of the majority and two of the minority. Note the sections from which members of this subcommittee come—Mr. French, chairman, of Moscow, Idaho; Mr. Hardy, Canon City, Colo.; Mr. Taber, Auburn, N. Y.; Mr. Ayres, Wichita, Kans.; and Mr. Oliver, Tuscaloosa, Ala. Not a seacoast man on the committee. The object, of course, is not to have men on that committee who have local interests to consider.

The subcommittee holds hearings that usually run six or eight weeks, meeting daily from 10:30 to 5 o'clock. Members must do their other work largely at night. The bill is analyzed in minutest detail. The Secretary of the Navy, the Assistant Secretary, the Chief of Operations, heads of bureaus and departments, admirals, captains, commander, and experts in many lines come before the committee and discuss policies and operations and endeavor to justify the amounts of money estimated for their bureau, service, or activity. Experts on submarines, aircraft, ammunition storage, and many other subjects are called. No employee of the Government can ask the Congress for more money than is suggested by the Budget. He is forbidden to do so by the President. Those representing the department have to make a pretty good showing before the committee to get as much as the Budget suggests. The totals for the departments are usually cut down.

After the subcommittee has heard everybody interested a book of hearings is printed. It is a compendium of information relating to the Navy. Each subcommittee is working in the same way—and hearings are printed for each bill.

After the hearings are over the subcommittee takes a few days to write up the bill and arrive at the amounts it will recommend to the House. Then the bill is presented to the whole Appropriations Committee for discussion and approval, and reported out.

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[1] Secs. 3553, 3897–3903 of Hinds' Precedents; third session Sixty-second Congress, Record, p. 2051; second session Sixty-fifth Congress, Record, p. 5176.

[2] Third session Sixty-sixth Congress, Record, pp. 2156, 2348, 2352.

[3] First session Seventieth Congress, Record, p. 10182.

The bill comes up in the House in its regular order. It usually requires from three to six days to pass an appropriation bill in the House. There is much debate and many speeches on questions of policy, number of men, number of ships, number and class of airplanes, pay and allowances, submarines, airplane carriers, guns, and ammunition.

Amendments are sometimes offered on the floor, but few amendments are adopted to an appropriation bill—practically none that the committee does not offer or approve.

The Navy bill this year was reported out at $359,190,737. The House added $227,500, with approval of committee.

After the bill passed the House at $359,418,237 it went to the Senate. There it was studied by the committee, reported out, and passed the Senate at $363,737,017.69. The Senate had increased the bill by $4,318,780.69.

The bill comes back to the House as amended and the House refuses to accept amendments and asks for a conference.

For several weeks the subcommittee of the Senate and subcommittee of the House meet in conference occasionally. All the different items the Senate has added are thoroughly discussed. The House accepts a few, the Senate gives up a few, and we deadlock for some weeks on the big ones. The question of number of men in the Navy is one of the contested points. The House provides for 83,250 men. The Senate wants to provide for 86,000 men. It costs upward of $1,000 per year for each man in the Navy. Here is a difference of about $2,250,000 on men alone. After many meetings and much argument each makes concessions and an agreement is reached late in the session. The Senators agree to 84,000 men. The House conferees accept 84,000 men. The Senate bill is reduced by $1,591,205.69. The House conferees feel that they have done the best they could—that a million and a half dollars is worth saving.

The conference report is signed, reported back to both Senate and House, and adopted. Conference reports are usually adopted.

The Navy bill now stands at $362,145,812 for the coming year, is sent to the President, signed, and becomes law.

With the Post Office bill we had better luck. The subcommittee of six members wrote up the bill at $764,950,042, which was $3,100,000 less than the Budget recommended. The whole committee reported it out as written. The House passed the bill without a single change. The Senate added $36,000—small item, indeed. The bill goes to conference and the conference agree to cut the $36,000 off. Bill goes back to both Houses and is passed identically as written and originally reported by the small subcommittee of six members.

This, in brief, is the history of the enactment of all appropriation bills. The bill as finally adopted reflects the calm judgment of the Bureau of the Budget, the two appropriation committees, the two Houses of Congress, and the President.

1118. Appropriations for other purposes than to supply deficiencies are not in order in a deficiency appropriation bill.

Discussion as to what is a "deficiency" appropriation.

On January 29, 1920,[1] the House was in the Committee of the Whole House on the state of the Union, considering the second deficiency appropriation bill.

The Clerk having read a paragraph providing for expenses of the Council of National Defense, Mr. George Holden Tinkham, of Massachusetts, made a point of order that it did not provide for a deficiency.

The Chairman[2] said:

The point of order made by the gentleman from Massachusetts is that the paragraph in question does not present a deficiency. He distinguishes between a deficiency and an anticipatory or anticipated deficiency. The Chair is not able, however, to follow this line of argument to any

[1] Second session Sixty-sixth Congress, Record, p. 2219.

[2] John Q. Tilson, of Connecticut, Chairman.

satisfactory conclusion, being unable to distinguish between a deficiency and an anticipated deficiency or an anticipatory deficiency. If the paragraph does not present a deficiency in the parliamentary sense of the word as used in this House it has no place in the bill.

It has been shown that this appropriation sought be made in this paragraph is authorized by existing law. It is also shown that it was appropriated for in a previous act, now current law. The question now is whether the present paragraph is a deficiency item appropriate to be included in a deficiency bill.

It is clear to the Chair that an estimate having been brought in by a department of the Government, the estimate having been considered by the Appropriations Committee, and it having been found by that committee to be necessary to add to the appropriations heretofore made an additional sum to carry on the activities of this particular department to the end of the present fiscal year, it was properly included in this bill as a deficiency item. The Chair therefore overrules the point of order.

1119. Items which do not supply deficiencies are not in order in the deficiency appropriation bills.

Appropriations "immediately available," formerly ruled out of supply bills as deficiency appropriations, are no longer subject to points of order as such (footnote).

On May 23, 1921,[1] while the deficiency appropriation bill was being read for amendment in the Committee of the Whole House on the state of the Union, an item providing an appropriation for salaries in the Treasury Department at annual rates for the next fiscal year was reached.

Mr. Otis Wingo, of Arkansas, made a point of order against the item on the ground that it did not provide for a deficiency and therefore was not in order in a deficiency bill.

In the course of the discussion Mr. James R. Mann, of Illinois, said:

It was ruled only recently, as it has been ruled many times before, that the sundry civil appropriation bill or any other appropriating bill which the Committee on Appropriations had jurisdiction of, could have included within it the term "to be immediately available," because the same committee had jurisdiction over deficiencies. That was ruled at the last session of Congress, and it has been ruled many times since I have been a Member of this House. The identical reason applies to this case, because if a deficiency is in order on a sundry civil appropriation bill, or other appropriating bill, then an appropriation for the next fiscal year would be in order on this bill. The only point of order that ever was made was one of jurisdiction. I have made the point of order against the words "to be immediately available"[2] 500 times or more in this House and have been sustained, but that was where some other committee than the Committee on Appropriations was trying to make a deficiency appropriation, as, for instance, the Committee on Naval Affairs or the Committee on Military Affairs. On the other hand, it has been ruled ever since I have been a Member of the House that the Committee on Appropriations could provide a deficiency item in one of its regular appropriating bills.

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[1] First session Sixty-seventh Congress, Record, p. 1642.

[2] As a provision making an appropriation "immediately available" amounts to a deficiency appropriation, and prior to the concentration of authority to report appropriations in the Committee on Appropriations that committee exercised exclusive jurisdiction over deficiencies, such items when reported by other committees were formerly subject to a point of order. But under the present rule, the Committee on Appropriations, having jurisdiction over all appropriations, including deficiencies, may report items to become immediately available in any general supply bill.

The Chairman [1] ruled:

The Chair is ready to rule. If this question were raised for the first time in the House, the Chair would be disposed to say that the rules of the House were made for the convenience of the House and to enable it to expedite its business, and would probably overrule the point of order; but the question is one that has been before the House many times. The orderly procedure of making appropriations has been that certain bills are brought into the House in which appropriations are made for certain activities of the Government in a systematic way. Toward the close of the Congress it has always been the custom to bring in deficiency appropriation bills to provide for deficiencies. In the consideration of deficiency bills it has been invariably the ruling of the Chair to rule out of order amendments offered from the floor which were not strictly deficiency items, and also to rule provisions of the bill which were not strictly deficiency items were out of order. Such a ruling occurred on the 2d of February, 1920, when the then Chairman held that an item that was not a deficiency item was not in order on a deficiency appropriation bill. As the Chair stated in the beginning, if it were an original proposition the Chair would be disposed to consider the matter in the light of the argument made by those who contend that the matter being within the jurisdiction of the Committee on Appropriations that committee could appropriate for an activity of the Government in any bill. But the last decision on the question, rendered in February, 1920, in a very well considered opinion after argument, held that an item was not in order on a deficiency appropriation bill that appropriated for the ensuing fiscal year. Therefore the Chair sustains the point of order.[2]

1120. Under the modern practice the provision that an appropriation be "immediately available "is not subject to a point of order.—On January 9, 1929,[3] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph providing for the construction of a new mess hall at the United States Military Academy was read.

Mr. Cassius C. Dowell, of Iowa, made a point of order against the item on the ground that the appropriation was to be "immediately available."

The Chairman [4] overruled the point of order and said:

As the Chair recalls, this particular point has been ruled upon a number of times since the adoption of our present system of appropriating. A point of order made on account of the words "immediately available" has been overruled.

Such items were formerly ruled out on account of jurisdiction, but since the Committee on Appropriations now has exclusive jurisdiction of all general appropriation bills, the point of order is no longer valid.

The Chair recalls a number of instances that have been ruled in this way. The Chair, therefore, overrules that point of order.

1121. Decision as to what constitutes a deficiency appropriation.

An additional appropriation for a purpose authorized by law and already appropriated for was treated as a deficiency appropriation when submitted by the department and reported by the committee as such.

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[1] Philip P. Campbell, of Kansas, Chairman.

[2] The practice of restricting deficiency bills to provisions for deficits in appropriations previously made for the current and prior fiscal years only, has been superseded and items and amendments for ensuing years are now admitted. (Cannon's Procedure, second edition, p. 25).

[3] Second session Seventieth Congress, Record, p. 1446.

[4] John Q. Tilson, of Connecticut, Chairman.

On June 2, 1920,[1] the deficiency appropriation bill for the fiscal year ending June 30, 1920, being under consideration in the Committee of the Whole House on the state of the Union, Mr. James C. McLaughlin, of Michigan, raised the question of order that a paragraph read by the Clerk did not constitute a deficiency appropriation.

The Chairman[2] said:

> The gentleman from Michigan makes the point of order against the paragraph under the Bureau of Biological Survey, general expenses, that it is not a deficiency.
>
> "General expenses, Bureau of Biological Survey, including the same objects specified under this head in the agricultural appropriation act for the fiscal year 1920, $36,271.50."
>
> On turning to the agricultural appropriation act for the current year the Chair finds that under the Bureau of Biological Survey there was an appropriation made of $686,300. The point of order made by the gentleman from Michigan is that this item, making an appropriation for the same objects specified under this head is not a deficiency. The Chair is unable to rule that it is not a deficiency. Where there has been an appropriation for a particular item in the current law, where the committee comes in with an additional sum submitted upon an estimate of the department and states that it is a deficiency, how is the Chair to find that it is not? It is impossible in such circumstances for the Chair to determine whether or not it is an actual deficiency. In the view of the Chair it is a deficiency in a parliamentary sense, and the Chair therefore overrules the point of order.

1122. A bill making supplemental appropriation for emergency construction on public works is not a general appropriation bill.—On December 9, 1930,[3] Mr. William R. Wood, of Indiana, from the Committee on Appropriations, asked unanimous consent for the consideration of the bill (H. R. 14804) making supplemental appropriation to provide for emergency construction on certain public works during the remainder of the fiscal year ending June 30, 1931, with a view to increasing employment.

The bill provided appropriations for the construction of highways under the jurisdiction of the Department of Agriculture, for roads and trails under the Department of the Interior, and for river and harbor expenditures under the War Department.

Mr. Fiorello H. LaGuardia, of New York, on a parliamentary inquiry, took the position that the bill was a general appropriation bill and therefore privileged.

The Speaker[4] ruled that the bill was without privilege and could be accorded immediate consideration only by unanimous consent.

1123. A deficiency appropriation bill is a general appropriation bill. Consideration of a general appropriation bill was held to be in order on District of Columbia Monday.

On Monday, February 26, 1923,[5] a day designated by the rules for the consideration of business reported by the Committee on the District of Columbia, Mr. Martin B. Madden, of Illinois, moved that the House resolve itself into the Com-

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[1] Second session of Sixty-sixth Congress, Record, p. 8298.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] Third session Seventy-first Congress, Record, p. 432.

[4] Nicholas Longworth, of Ohio, Speaker.

[5] Fourth session Sixty-seventh Congress, Journal, p. 274; Record, p. 4678.

mittee of the Whole House on the state of the Union for the consideration of the third deficiency appropriation bill.

Mr. Thomas L. Blanton, of Texas, made the point of order that the motion was not in order on this day.

The Speaker pro tempore [1] said:

The gentleman from Illinois moves that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the deficiency bill, and the gentleman from Texas makes the point of order that the gentleman from Illinois may not make that motion today, for the reason that it is the fourth Monday in the month. The rules specifically provide that it is in order to move on this day to go into Committee of the Whole House on the state of the Union for the consideration of a general appropriation bill, and it has always been held that a deficiency appropriation bill is a general appropriation bill. Therefore the Chair overrules the point of order.

An appeal by Mr. Blanton from the decision of the Chair was, on motion of Mr. Frank W. Mondell, of Wyoming, laid on the table—yeas 103, nays 14.

1124. The statutes prescribe the method of submission to Congress of estimates of appropriations for support of the Government.

Only such estimates as are transmitted through channels provided by law are considered in preparation of the annual supply bills.

The Speaker declines to refer to the Committee on Appropriations estimates or requests relating to appropriations transmitted through other than official channels.

On November 9, 1921, the Speaker [2] transmitted to the Secretary of War the following communication:

NOVEMBER 9, 1921.

Hon. JOHN W. WEEKS,

Secretary of War, Washington, D. C.

DEAR SIR: Receipt is acknowledged of your letter of November 7, 1921, requesting the transfer of appropriations by appropriate legislation from "Arming, equipping, and training the National Guard," etc., to "Transportation of supplies," etc. In effect this letter is an estimate for a deficiency appropriation, and since it is not transmitted through the channels prescribed by the Budget law,[3] may not form the basis for an official estimate for the purposes of referring it to the Committee on Appropriations or including the item in an appropriation bill reported from the committee.

Yours respectfully,

FREDERICK H. GILLETT.

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[1] Philip P. Campbell, of Kansas, Speaker pro tempore.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] 31 U. S. C. I.

Chapter CCXXI.[1]

AUTHORIZATION OF APPROPRIATIONS ON GENERAL APPROPRIATION BILLS.

1125. A rule forbids in a general appropriation bill any appropriation not previously authorized by law, unless for continuation of works or objects in progress.

A rule forbids any legislative provision in a general appropriation bill except such as being germane retrenches expenditures.

Germane amendments retrenching expenditures are in order on general appropriation bills when reported by committees having jurisdication.

Form and history of section 2 of Rule XXI.

Section 2 of Rule XXI makes provision against legislation in general appropriation bills, as follows:

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, unless in continuation

[1] Supplementary to Chapter XCV.

of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill: *Provided,* That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures.

The provision admitting legislation intended to retrench expenditures on general appropriation bills was first adopted in 1876,[1] and having been proposed by Mr. William S. Holman, of Indiana, has since been known in its various forms as the "Holman rule."

It was omitted from the rules of the Forty-ninth Congress and did not appear again until the adoption of rules for the Fifty-second Congress. It was retained by the Fifty-third Congress, but was eliminated in 1891 and was not again included in the rules until the revision of 1911,[2] when it was readopted in its present form.

1126. The law prohibiting purchase of vehicles from appropriations for executive departments without specific authority is merely a limitation on administrative officers and does not support a point of order against items in an appropriation bill.[3]

On January 5, 1915,[4] the Indian appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when Mr. Martin D. Foster, of Illinois, made the point of order that an appropriation for the purchase of automobiles for the use of the Indian service was contrary to law.[5]

The Chairman[6] ruled:

The gentleman from Illinois makes a point of order against the paragraph:

"That the Secretary of the Interior is authorized to purchase for the use of superintendents, farmers, physicians, field matrons, allotting, irrigation, and other employees of the Indian field service, in the supervision and administration of the affairs of the Indians, 20 motor-propelled passenger-carrying vehicles, at a cost not to exceed $15,000; 40 horse-drawn passenger-carrying vehicles not to exceed a total cost of $8,000; and to expend for the maintenance, repair, and operation of motor-propelled and horse-drawn passenger-carrying vehicles, including those now on hand and those to be purchased for the Indian Service, $200,000; in all, $223,000, payment to be made from applicable funds herein appropriated or otherwise available."

It is contended that this section is not authorized by law and is new legislation on an appropriation bill. Gentlemen have cited, in support of the point of order, section 5 of the legislative, executive, and judicial act for the fiscal year 1915.

The Chair has some personal knowledge of the reasons which brought about the action of the Committee on Appropriations in recommending the enactment of such legislation. As has been stated several times, it was intended to correct a possible abuse in applying the lump-sum contingent fund to the purchase of automobiles, and so forth. This section was passed in order to afford Congress some information as to the automobiles that were to be purchased, and why they were to be purchased.

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[1] First session Forty-fourth Congress, Record, p. 445.

[2] First session Sixty-second Congress, Record, pp. 16, 80.

[3] For somewhat different decision see sec. 8277, this work.

[4] Third session Sixty-third Congress, Record, p. 985.

[5] 38 Stat. L., p. 508.

[6] Joseph W. Byrns, of Tennessee, Chairman.

The Chair does not think it was intended by Congress to deny itself the right in an appropriation bill to authorize any executive department of the Government to purchase motor-drawn vehicles or any other kind of vehicles, where they are needed as an administrative necessity. The section in question provides that these automobiles and vehicles shall be purchased for the use of superintendents, farmers, physicians, field matrons, allotting, irrigation, and other employees of the Indian field service in the supervision and administration of the affairs of the Indians.

It is very clear to the Chair that the occasion might arise as an administrative necessity where an automobile, or a motor-drawn vehicle, or some other class of vehicle, like a wagon or other horse-drawn vehicle, would be necessary in order to properly perform the duties of the Bureau of Indian Affairs. The Chair does not think that the section which has been quoted and relied on to sustain this point of order goes so far as to require, or that it was intended to require, special legislation. It seems to the Chair that it was passed for the purpose of providing a check by Congress, so to speak, on the purchase of motor-drawn vehicles used by the various departments of the Government, so that Congress might have before it estimates from these various departments as to the number of vehicles required, and why they were needed.

The point has been made that this section of the legislative, executive, and judicial act provides that there shall not be expended out of any appropriation, and so forth, any money for any vehicle for any branch of the Government service unless the same is specifically authorized by law. The Chair thinks that is nothing more or less than limitation upon an administrative officer, and that if Congress in its wisdom sees fit to authorize the purchase of motor-drawn vehicles or other vehicles for the administrative purposes set forth in this bill, then it would be authorized by law within the meaning of the section referred to, because an appropriation bill after it has passed, is as much law as any other statute which may be passed.

The Chair, therefore, overrules the point of order.

1127. On January 15, 1921,[1] the Indian appropriation bill was under consideration in Committee of the Whole House on the state of the Union. A paragraph was read providing for the purchase of automobiles for the use of employees in the Indian field service.

Mr. Homer P. Snyder, of New York, raised a question of order against the paragraph.

The Chairman[2] overruled the point of order.

1128. The granting of quarters as part of the compensation of a civil employee without a proportionate reduction of salary was held to be contrary to law and not to be in order on an appropriation bill.

Appropriation for an object in former years does not justify the continuation of the appropriation.

On February 4, 1933,[3] the legislative appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the paragraph appropriating for the maintenance of the Botanic Garden containing the following proviso:

Provided, That the quarters, heat, light, fuel, and telephone service heretofore furnished for the director's use in the Botanic Garden shall not be regarded as a part of his salary or compensation, and such allowances may continue to be so furnished without deduction from his salary or compensation notwithstanding the provisions of section 3 of the act of March 5, 1928.[4]

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[1] Third session Sixty-sixth Congress, Record, p. 1481.

[2] Simeon D. Fess, of Ohio, Chairman.

[3] Second session Seventy-second Congress, Record, p. 3416.

[4] U.S. Code, title 5, section 678.

Mr. John C. Schafer, of Wisconsin, made a point of order against the proviso on the ground that it was unauthorized by law.

Mr. John N. Sandlin, of Louisiana, informed the Chair that the provision had been carried in the bill for years but that he was unable to refer to any statutory authorization.

The Chairman [1] sustained the point of order.

1129. An appropriation for experiments and demonstrations in livestock production was held to be authorized by the organic law creating the Department of Agriculture.

On January 26, 1921,[2] during the consideration of the agricultural appropriation bill in the Committee of the Whole House on the state of the Union, the following paragraph was read:

Experiments and demonstrations in livestock production in the cane-sugar and cotton districts of the United States: To enable the Secretary of Agriculture, in cooperation with the authorities of the States concerned, or with individuals, to make such investigations and demonstrations as may be necessary in connection with the development of livestock production in the cane-sugar and cotton districts of the United States, including the employment of persons and means in the city of Washington and elsewhere, $51,500.

Mr. Joseph Walsh, of Massachusetts, submitted a point of order against the clause authorizing the employment of persons in Washington, which was sustained.

Thereupon Mr. Sydney Anderson, of Minnesota, offered, as an amendment, the same paragraph omitting the provision for "the employment of persons and means in the city of Washington and elsewhere."

Mr. Walsh made the point of order that there was no authority of law for the appropriation.

The Chairman [3] said:

The Chair feels that under the organic law creating the Department of Agriculture, which is a very broad and comprehensive one, there is authority for these investigations. The Chair, therefore, overrules the point of order.

1130. Payment of cash in lieu of transportation for naval personnel is not authorized by statute and an appropriation for that purpose is not in order on an appropriation bill.

On February 11, 1921,[4] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph was reached making appropriation for the Bureau of Navigation. Mr. Fred A. Britten, of Illinois, made the point of order that an appropriation for the following purpose was unauthorized:

Transportation of enlisted men and apprentice seamen and applicants for enlistment at home and abroad, with subsistence and transfers en route, or cash in lieu thereof—

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[1] Alfred L. Bulwinkle, of North Carolina, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 2094.

[3] Frederick C. Hicks, of New York, Chairman.

[4] Third session Sixty-sixth Congress, Record, p. 3021.

The Chairman [1] said:

The Chair thinks the language providing for cash in lieu thereof is subject to a point of order, and the Chair sustains the point of order.

1131. Provision that an appropriation to be administered "in conformity with" an act is not subject to the point of order that it is in violation of such act.

On January 13, 1922,[2] during the consideration of the Post Office appropriation bill, Mr. Halvor Steenerson, of Minnesota, made the point of order that the appropriations provided by the bill were in violation of law.

Mr. James R. Mann, of Illinois, said in debate:

It is the contention of my distinguished friend from Minnesota that the appropriations carried in this bill are in conflict with the act of 1836. But the bill says that the appropriations are made in conformity with that act. That is the law, if it is written into the law. If this is enacted, it is the law, and any contention that it is in conflict falls, because the law says it is in conformity with the act of 1836. I assume that they did not assume that they were saying that the appropriation should be made in conformity with a repealed act. However, I do not think that makes any difference. But this will be the law if it is enacted, and this law will say, if it is enacted, that the appropriations in this bill are in conformity with the act of 1836, notwithstanding my genial friend from Minnesota insists that they are in conflict with the act of 1836. The law says it must be in conformity with the act of 1836.

The Chairman [3] ruled:

The Chair is ready to rule. The gentleman from Minnesota makes the point of order that in paragraph 2 of the bill there are items of appropriation which do not come within the usual term of "field service," that it is an appropriation in violation of the provisions of the act of July 2, 1936. The act of July 2, 1836, reads as follows:

"And be it further enacted, That the aggregate sum required for the service of the Post Office Department in each year shall be appropriated by law out of the revenues of the department, and all payments and receipts of the Post Office Department in the Treasury shall be to the credit of said appropriation."

That provision is expressly repealed by the act of June 8, 1872, not by implication, but by expressly referring to it in the repealing clause. The provision of law (act of June 8, 1872) which supplants the repealed section reads as follows:

"The money required for the Postal Service in each year shall be appropriated for out of the revenues of the service."

In ruling on the point of order, the Chair must be governed by the language of the bill. The language of the bill expressly provides that the sums are appropriated in conformity with the act of July 2, 1836. The fact that that act has been repealed does not militate against reference to it in the present bill. An act which has been repealed may be referred to in a measure in order to make it definite. In other words, by the terms of the bill these appropriations covered by all the items in section 1 are in conformity with the provisions of the act which the gentleman from Minnesota says they violate.

1132. An appropriation of certain revenues of the Shipping Board in direct violation of existing law requiring such moneys to be covered into the Treasury [4] was held not in order on a general appropriation bill.

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[1] Joseph Walsh, of Massachusetts, Chairman.

[2] Second session Sixty-seventh Congress, Record, p. 1156.

[3] Everett Sanders, of Indiana, Chairman.

[4] See also sections 8254 and 8263 of this work.

On January 27, 1922,[1] the independent offices appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following:

For expenses of the United States Shipping Board Emergency Fleet Corporation during the fiscal year ending June 30, 1923, for administrative purposes, miscellaneous adjustments, losses due to the maintenance and operation of ships, for the tie-up, reconditioning, and repair of ships, and for carrying out the provisions of the merchant marine act, 1920, $55,000,000 from moneys collected from mortgages, leases, accounts, and bills receivable other than those arising from current operations, and from moneys collected from the sale of ships, plants, material, securities, and other assets, prior to July 1, 1923, less such portion of said $55,000,000 which shall have been collected during the fiscal year 1922 under the provisions of an act entitled "An act making appropriation for sundry civil expenses of the Government for the fiscal year ending June 30, 1922, and for other purposes." approved March 4, 1921.

Mr. James F. Byrnes, of South Carolina, raised a point of order.

After debate, the Chairman[2] held:

Of course, we are all familiar with the proposition that legislation on an appropriation bill is not in order. There must be an authorization under existing law upon which the appropriation may stand, or it must fall. In this instance we have, as it seems to the Chair, very clearly not only a provision which is not authorized by existing law but one which is directly contrary to existing law. The provision in this paragraph is for the expenses of the United States Shipping Board Emergency Fleet Corporation, for administrative purposes, miscellaneous adjustments, losses due to maintenance and operation of ships, for the tying up and reconditioning of ships, and the carrying out of the provisions of the merchant marine act.

Now we find ourselves confronted, as has been shown by the gentleman from South Carolina, Mr. Byrnes, in his reference to section 14, to which the attention of the Chair has been called, with the fact that the net proceeds derived by the board after July 1, 1922, must be applied to certain specific purposes or turned into the Treasury of the United States. The purposes stated are as follows:

"Such net proceeds, less an amount to be authorized by Congress to be withheld as operating capital, less such sums as may be needed for insurance, etc., shall be covered into the Treasury of the United States as miscellaneous receipts"; so that we have this direct and positive statement by existing law in the organic act creating this board, in which it is stated that for these specified purposes after July 1 those proceeds must be conveyed into the Treasury of the United States, unless they should be for the three purposes mentioned. These three purposes, and these three purposes only, may be reappropriated for by Congress in an appropriation act or otherwise.

As I stated before, they must be only those three exceptions, and none other authorized by law; otherwise the provision is in contravention of law. It appears to the Chair clearly and inevitably that the point of order is well taken, for the reason which the Chair has stated, and the Chair so holds.

1133. An appropriation for a public building in excess of the limit of cost fixed by law is not in order on an appropriation bill.

On April 6, 1922,[3] the State and Justice Departments appropriation bill was being considered in the Committee of the Whole House on the state of the Union, when Mr. John Jacob Rogers, of Massachusetts, offered an amendment providing an appropriation, in addition to one of $150,000 previously made, for the purchase of an embassy building in Paris, France.

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[1] Second session Sixty-seventh Congress, Record, p. 1839.

[2] Horace M. Towner, of Iowa, Chairman.

[3] Second session Sixty-seventh Congress, Record, p. 5128.

Mr. Thomas L. Blanton, of Texas, made the point of order that the appropriation was unauthorized.

The Chairman [1] said:

The Chair is ready to rule.

The authorization of the Lowden Act is as follows:

"Provided, however, That not more than the sum of $500,000 shall be expended in any fiscal year under the authorization herein made: *And provided further,* That in submitting estimates of appropriation to the Secretary of the Treasury for transmission to the House of Representatives the Secretary of State shall set forth a limit of cost for the acquisition of sites and buildings and for the construction, alteration, repair, and furnishing of buildings at each place in which the expenditure is proposed (which limit of cost shall not exceed the sum of $150,000 at any one place) and which limit shall not thereafter be exceeded in any case, except by new and express authorization of Congress."

The Chair has no trouble in construing this proviso. It seems clear to the Chair from the language itself that the cost at any one place is limited to $150,000, unless Congress sees fit to authorize further expenditure. But in order that we may have the view of the House on this question the Chair desires to call attention to the statement of the distinguished gentleman from Illinois, Mr. Lowden, when this legislation was presented to the House for consideration.

The interpretation by Mr. Lowden on this proviso and limitation of expenditure is in the following language—I read:

"While it is true that under this bill with its present limitation it will not be possible to purchase embassies in some of the capitals of Europe where land has become very expensive, it will be possible within the limitation of $150,000 as proposed to purchase embassies and consulates while there is yet time."

This interpretation the Chair assumes was placed upon this legislation by the Congress at the time of its passage.

However, the Chair can interpret the language of the act itself in no other way than a limitation of the appropriation to $150,000 at any one place until Congress authorizes further expenditures.

The Chair sustains the point of order.

1134. The right granted by treaty and supplemental legislation to maintain civil government in the Canal Zone was held to authorize appropriations in general appropriation bills for such maintenance.[2]

On May 7, 1908,[3] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Henry T. Rainey, of Illinois, raised a question of order against this paragraph:

For pay of officers and employees other than skilled and unskilled labor in the service of the government of the Canal Zone, $225,000 and the unexpended balances of appropriations for these objects available June 30, 1908.

The Chairman [4] ruled:

Against the paragraph the gentleman from Illinois, invokes, as the Chair understands, the second clause of Rule XXI of this House, which declares—

"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, unless in con-

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[1] Cassius C. Dowell, of Iowa, Chairman.

[2] Subsequently specifically authorized by the act of August 24, 1912 (U.S. Code, title 48, section 1305).

[3] First session Sixtieth Congress, Record, p. 5889.

[4] Marlin E. Olmsted, of Pennsylvania, Chairman.

tinuation of appropriations for such public works and objects as are already in progress; nor shall any provision changing existing law be in order in any general appropriation bill or in any amendment thereto."

It is urged that this paragraph appropriating for the pay of officers and employees other than skilled and unskilled labor in the service of the government of the Canal Zone, is without authority of law.

By recent resolution of the House the President of the United States was asked to state by what authority of law he has exercised the functions of government in the Panama Canal Zone since the date of the expiration of the Fifty-eighth Congress, or by what right or authority the executive, legislative, and judicial functions in the Zone have been performed since that date.

Replying to that resolution of inquiry, the President, by message delivered to the House on the 4th of April, 1908, said:

"Civil government has been maintained in the Canal Zone under my direction pursuant to the authority conferred by the treaty between the United States and Panama, concluded November 18, 1903, and the acts of Congress approved June 28, 1902; April 28, 1904; March 3, 1905; December 21, 1905; June 30, 1906; March 4, 1907; by which the right to maintain civil government in the Canal Zone was granted to the United States, the duty to maintain it was imposed upon the President, and the means for its maintenance were from year to year expressly and specifically appropriated by Congress."

Now, it would probably be safe for the occupant of the chair in Committee of the Whole to accept the construction of the law as declared by the President, acting presumably under the advice of the chief law officer of the Government. But the gentleman from Illinois calls attention to the second section of the act of April 28, 1904, by virtue of which he claims that upon the expiration of the Fifty-eighth Congress the power of the President to govern the Zone in the manner indicated ceased. Without stopping to inquire into all the acts of Congress referred to in the President's message, the Chair refers first to the treaty with the Republic of Panama. The second article defines the Canal Zone. The third article reads:

"The Republic of Panama grants to the United States all the rights, power, and authority within the Zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority."

It is manifest therefore, that the Zone must be governed by the United States in some way or not governed at all.

The Chair finds an act later than the act of 1904, namely, the act of December 21, 1905, in the third section of which occurs this language:

"That the President shall annually, and at such other periods as may be provided, either by law or by his order, require full and complete reports to be made to him by the persons appointed or employed by him in charge of the government of the Canal Zone, the construction of the Isthmian Canal, and the operation of the Panama Railroad"—

And so forth.

Now, the Chair calls particular attention to this clause:

"The President shall annually cause to be made, by the persons appointed and employed by him in charge of the government of said Canal Zone and the construction of said canal, estimates of expenditures and appropriations, in detail as far as practicable, which estimates shall cover all annual salaries paid to persons employed on said work, excepting laborers and skilled laborers, and shall be submitted to Congress in the manner provided in section 5 of the act entitled 'An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1902, and for other purposes. ' "

Here is an act passed in 1905 by the Fifty-ninth Congress, after the expiration of the term of the Fifty-eighth Congress, requiring by reasonable interpretation that the President shall continue to govern the Canal Zone in the manner in which he had governed it, and as pointed out in the act of 1904. In pursuance of that authority the President has, from year to year,

caused estimates to be submitted by the proper department to the House, Congress has each year made appropriations for that specific purpose, and the government of the Zone has continued under that authority.

When a provision of permanent law is allowed to remain in an appropriation bill and is enacted into law, it is just as binding and effective as though found in any other statute. But the act of December 21, 1905, is not an appropriation act at all. It was not intended to and did not make law for one year only, but was intended to be and is permanent in character. It requires reports to be made "annually" by those appointed by the President to govern the Canal Zone. It shows the contemplation and intention of Congress that the President shall continue the government of the Canal Zone. If there were any doubt upon this point, there would still remain the fact that an appropriation in continuation of appropriations for a Government work or object already in progress requires no previous authority of law, but is excepted out of the rule. Without any hesitation whatever the Chair overrules the point of order.

On February 26, 1909,[1] during the consideration of the sundry civil appropriation bill in Committee of the Whole, Mr. Francis B. Harrison, of New York, having made this point of order against a similar item, the Chairman[2] said:

The same point of order was made one year ago to this same paragraph in the sundry civil appropriation bill for the current year. The present occupant of the chair ruled upon it then. Without stopping to read it, the Chair adopts and adheres to that ruling. It contains a discussion of this whole subject. The Chair will call the attention of the gentleman from New York to the fact that it did not rest upon the proposition that the appropriation was for the continuation of a government work in progress, but said, after ruling that there was authority for that appropriation, that "if there were any doubt upon that point, there would still remain the fact that an appropriation in continuation of appropriations for a government work or object already in progress requires no previous authority of law, but is excepted out of the rule." The Chair overrules the point of order now for the same reasons as it did then.

Again, on January 18, 1910,[3] when this item was reached in the urgent deficiency appropriation bill, Mr. Harrison raised the same question of order.

The Chairman[4] said:

This same point has been passed upon twice during the last two years. The Chair calls the attention of the gentleman from New York to the first decision, on May 7, 1908. The sundry civil bill being under consideration in Committee of the Whole House on the state of the Union, the paragraph relating to the Isthmian Canal was as follows:

"Eighth. For the pay of officers and employees other than skilled and unskilled labor in the service of the government of the Canal Zone, $225,000; and the unexpended balances of appropriations for these objects available June 30, 1908."

Mr. Henry T. Rainey, of Illinois, made the point of order that there was no authority of law for this appropriation. There was considerable debate, and the Chairman of the Committee of the Whole in a long opinion overruled the point of order.

Again, on February 26, 1909, the sundry civil appropriation bill being under consideration a similar paragraph having been read, the gentleman from New York, who makes this point of order, made the point of order at that time.

Again, after debate, the Chair overruled the point of order.

Under these rulings the Chair overrules the point of order.

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[1] Second session Sixtieth Congress, Record, p. 3307.

[2] Marlin E. Olmsted, of Pennsylvania, Chairman.

[3] Second session Sixty-first Congress, Record, p. 771.

[4] Henry S. Boutell, of Illinois, Chairman.

1135. A convention arrived at by Executive correspondence and not formally ratified by the contracting parties was not held to constitute a treaty to the extent of authorizing an appropriation on an appropriation bill.

An appropriation to continue representation of the United States at an adjourned meeting of an international conference was held not to be in continuance of a public work.

On January 17, 1910,[1] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

International conference on maritime law: For expenses necessary for the representation of the United States at the adjourned meeting of the Third International Conference on Maritime Law, at Brussels, Belgium, in April, 1910, for the purpose of considering conventions and projects relating to collisions at sea, salvage, liability of shipowners, and liens, $5,000, or so much thereof as may be necessary, together with the unexpended balance of the previous appropriation for representation of the United States at the Third International Conference on Maritime Law, to meet at Brussels in 1909.

Mr. Francis B. Harrison, of New York, made a point of order that the appropriation was not authorized by existing law.

Mr. James A. Tawney, of Minnesota, explained:

By convention entered into between the powers named in this paragraph, this congress has already held two meetings. At the last meeting they reached a formal conclusion, but before the conclusion could be ratified it had to be submitted to their respective governments, with the understanding—and the convention provided—that the ratification shall take place at a subsequent conference. Now, this is for the purpose of completing the work authorized by the conventions or treaties entered into with all these countries, according to the terms and conditions of those conventions. It is to defray the expense of the delegates attending the third and last congress, when the final result of the preceding congresses will be promulgated. It is clearly authorized by law.

And I may say that not only was an appropriation made, but it was authorized under a convention between independent nations; and if that is not good law, I do not know what is.

The Chairman[2] said:[3]

It appears that this convention was held pursuant to executive arrangement by correspondence, and not in accordance with the treaty or by law; by treaty I mean such a treaty as is contemplated in the Constitution and ratified by the Senate, and is therefore the law of the land. It therefore can not be held in order as authorized by existing law.

The question therefore recurs as to whether it can be considered a work in progress. If the appropriation in the current act, although originally subject to a point of order, had been agreed to and it was within the rules a work in progress, the Chair would be inclined to hold that this provision was in order. But under the decisions, which are very numerous, it does not appear to the Chair that this can be held to be work in progress. For example, it is held in volume 6 of Hinds's Digest, page 110:

"An appropriation to continue the duties of a commission was held not to be the continuation of a public work.

"The continuation of scientific work by a department of the Government does not constitute a work in progress, and must be appropriated for under authorization of prior law.

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[1] Second session Sixty-first Congress, Record, p. 721.

[2] Henry S. Boutell, of Illinois, Chairman.

[3] Record, p. 749.

"The continuation of investigations of mineral, coal, and so forth, was held not a continuation of a public work."

Under these rulings the Chair sustains the point of order.

1136. A treaty authorizing appropriations for Indian tribes subscribing as contracting parties thereto does not sanction appropriations for other Indian tribes.

Unauthorized appropriations for relief of distressed Indians do not constitute such work in progress as will authorize similar items in subsequent bills.

On February 18, 1910,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

"For the relief of distress among Indians, not otherwise provided for, including the purchase of vaccine and the expense of vaccination, and for the prevention and treatment of tuberculosis, trachoma, smallpox, and other contagious and infectious diseases among Indians, $40,000."

Mr. James R. Mann, of Illinois, made the point of order that there was no authority of law for such appropriation.

The Chairman[2] said:

Section 2 of Rule XXI declares 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, unless in continuation of such public works or objects as are already in progress."

Is there any authority of law for this proposed expenditure for the relief of Indians in distress?

The Chair finds in the Revised Statutes, after a hurried examination, that there is statutory authority for the education of Indians, for schools, and so forth, but not, as far as the Chair is able to discover or has been informed, for the relief of distress among the Indians or supplying them with medicines.

In the so-called "Black Hills treaty," which has been sent to the Chair, there is a provision that the Government will furnish supplies for the parties to this agreement who are unable to sustain themselves. That would clearly provide for relief of distress for such Indians as are parties to this treaty.

The language is that the Government will aid said Indians, but it refers only to the parties to this treaty. There may be other treaties, or many of them, containing similar provisions. If this paragraph in the bill were confined to Indians parties to such treaties, the Chair would have no difficulty in sustaining it; but it seems to be general in its terms, relating to all Indians whether parties to any such treaty or not, and therefore in violation of the rule, which says that no appropriation for an expenditure not previously authorized by law shall be in order. Previous appropriations have been made for similar purposes, no point of order having been made against them. They were made only for one year and for a specific sum, and that does not afford any authority for any further expenditure as proposed here. The Chair has been trying to find if it could be sustained as in continuation of a public work in progress, but it seems clearly to fall within the precedents which hold the other way.

No matter how meritorious or desirable it may be, the Chair may not consider the merits of the proposition, but must be governed by the rules. The point of order must therefore be sustained.

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[1] Second session Sixty-first Congress, Record, p. 2101.

[2] Marlin E. Olmsted, of Pennsylvania, Chairman.

1137. Treaty stipulations providing for protection of the Panama Canal and enactments in conformity therewith were held to authorize appropriations for canal fortifications.

On February 25, 1911,[1] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph appropriating for the construction of fortifications on the Isthmian Canal was reached.

Mr. J. Warren Keifer, of Ohio, made the point of order that the appropriation was not authorized by law.

The Chairman[2] said:

The Clayton-Bulwer treaty of April 19, 1850, contains this provision in Article I:

"The Governments of Great Britain and the United States hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal; agreeing that neither will ever erect or maintain any fortifications commanding the same or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, etc."

For many years there were bills pending, some of which were reported, in reference to the construction of an isthmian canal, a number of them relating in recent years to the Nicaraguan Canal in aid of the Maritime Canal Co. On December 12, 1898, the Hon. William P. Hepburn, who was then the chairman of the Committee on Interstate and Foreign Commerce, the committee of this House which had jurisdiction of legislation relating to the Isthmian Canal, introduced a bill which for the first time proposed that the Government itself should construct the canal. That bill provided, among other things, that the President of the United States—"be, and he is hereby, authorized to acquire by purchase from the States of Costa Rica and Nicaragua full ownership * * * of certain territory on which to excavate, construct, and defend a canal of such depth and capacity."

That was at the third session of the Fifty-fifth Congress. At the first session of the Fifty-sixth Congress, on December 7, 1899, Mr. Hepburn introduced another bill to the same effect, that the President, and so forth, be authorized to acquire territory on which to excavate, construct, and defend a canal of such depth and capacity. Following the introduction of that bill on the 5th of February, 1900, a treaty was signed by Mr. Hay and Sir Julian Pauncefote, commonly known as the first Hay-Pauncefote treaty, which referred to the Clayton-Bulwer treaty as follows:

"The United States of America and Her Majesty, the Queen of the United Kingdom of Great Britain and Ireland, etc., being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, and to that end to remove any objections that may arise out of the convention on the 19th of April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the 'general principle' of neutralization established in Article VIII of that convention."

Among other provisions in this Hay-Pauncefote treaty was this in Article II:

"The high contracting parties, desiring to preserve and maintain the 'general principle' of neutralization established in Article VIII of the Clayton-Bulwer convention, adopt as the basis of such neutralization the following rules."

It will be noticed that this article places the responsibility for maintaining the principle of neutralization not upon the United States alone, but upon the United States and Great Britain. Paragraph 7 of Article II of that treaty contains this provision:

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[1] Third session Sixty-first Congress, Record, p. 3469.

[2] James R. Mann, of Illinois, Chairman.

"No fortification shall be erected commanding the canal or the waters adjacent. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder."

When that treaty was submitted to the Senate of the United States various amendments were suggested in the Senate, but in the end the treaty was not ratified by either party. Following the sending of that message to the Senate of the United States and its consideration in the Senate on May 3, 1900, Colonel Hepburn introduced this bill:

"A bill to provide for the construction of a canal connecting the waters of the Atlantic and Pacific Oceans.

"That the President of the United States be, and he is hereby, authorized to acquire from the States of Costa Rica and Nicaragua, for and in behalf of the United States, control of such portion of territory now belonging to Costa Rica and Nicaragua as may be desirable and necessary on which to excavate, construct, and protect a canal of such depth and capacity."

Here were bills pending in Congress, one of which was reported before the treaty had been agreed upon and ratified between the United States and Great Britain abrogating the Clayton-Bulwer treaty, providing that the United States should construct and defend or protect the canal. The first Hay-Pauncefote treaty did not contain a provision directly abrogating the Clayton-Bulwer treaty. There was then before the two countries a proposition presented by a legislative committee of this House having control of the subject, a proposition that the United States should construct and defend or protect an Isthmian Canal and a provision that the Clayton-Bulwer treaty could be, if not abrogated, changed to allow that.

The Hay-Pauncefote treaty, which was finally ratified, contained a provision that the high contracting parties agree that the present treaty—that is, the last Hay-Pauncefote treaty—shall supersede the aforementioned convention of the 19th of April, 1850, the Clayton-Bulwer treaty.

The Clayton-Bulwer treaty, therefore, is entirely abrogated. Article III of the Hay-Pauncefote treaty provides that the United States, not the United States and Great Britain, but the United States adopts as a basis of neutralization of such ship canal the following rules substantially as embodied in the convention of Constantinople of October 28, 1888, for the free navigation of the Suez Canal. That is to say, the canal shall be free and open to vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect to the conditions, or charges of traffic, or otherwise. Such conditions and charges of traffic shall be just and equitable.

And there are various other rules. Article II of that treaty provides that—

"The canal may be constructed under the auspices of the Government of the United States, either directly at its own cost or by gift or loan of money by individuals."

And that—

"subject to the provisions of the present treaty, the United States shall have and enjoy the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal."

Paragraph 2 of Article III provides:

"The canal shall never be blockaded, nor shall any right of war be excised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder."

And the provision which was in the first Hay-Pauncefote treaty, "that no fortification shall be erected commanding the canal or the waters adjacent," was deliberately left out of the treaty which was ratified.

The present occupant of the chair has endeavored to read all of the correspondence which has been published in any form upon this subject, and has no hesitation in saying that in his opinion it was the design in the treaty to leave to the Government of the United States the right to determine how it should police the canal, and what regulations it should make.

Following the ratification of the Hay-Pauncefote treaty, which was ratified in November, 1001, came an act of Congress based upon the Hepburn bill, which had passed the House and

for which a substitute was made in the Senate. That act, commonly known as the Spooner Act, is the act of June 28, 1902. It provided:

"That the President is hereby authorized to acquire from the Republic of Colombia, for and on behalf of the United States, upon such terms as he may deem reasonable, perpetual control of a strip of land, the territory of the Republic of Colombia, not less than 6 miles in width, and extending from the Caribbean Sea to the Pacific Ocean, and the right to use and dispose of the waters thereon, and to excavate, construct, and to perpetually maintain, operate, and protect thereon, a canal of such depth and capacity, etc."

Another provision of that act is section 5, reading:

"That the President is hereby authorized to cause to be entered into such contract or contracts as may be deemed necessary for the proper excavation, construction, completion, and defense of said canal, harbors, and defenses, by the route finally determined upon under the provisions of this act."

The route finally determined upon was the Panama Canal route, and it is said that the convention or treaty entered into between the United States and Panama would not permit the United States to fortify the canal.

Article XVIII of the treaty between the United States and Panama provides:

"The canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened under the terms provided for in section I of Article III of, and in conformity with all the stipulations of, the treaty entered into by Great Britain and the Government of the United States October 18, 1901."

But the neutralization under the treaty (the Hay-Pauncefote treaty) is to be maintained by the United States, not by the United States and Great Britain.

It is said that the limit of cost has been exceeded. The original limit of cost for the canal was based upon the estimate of the engineers, but when Congress adopted the lock-type of canal at the time it did, it was well known that the original limit of cost would be exceeded.

The chairman is not now certain what provision was made at that time in reference to the limit of cost, but in the Payne tariff bill it was provided, among other things, in reference to the issuance of bonds, that there might be issued the additional sum of $290,569,000 of bonds, which sum, together with the $84,631,900 already borrowed by the issuance of 2 per cent bonds under section 8 of the act of June 28, 1902, equals the estimate of the Isthmian Canal Commission of the amount required to cover the entire cost of the canal from its inception to its completion; and if there be no other change of authorization it is quite certain that the adoption of this estimate by the authority to issue bonds to cover the estimate of cost would be, of itself, an adoption of the estimate.

The Chair personally has been very much at sea in reference to the desirability of fortifying the canal, but in deciding the point of order the Chair does not pass upon that in any respect. It seems to the Chair that whereas it is provided that the United States shall preserve the neutrality of the canal for the benefit of all nations alike, and that the United States shall provide military police upon the canal to preserve it from disorder, and whereas Congress has provided that the Government shall construct, maintain, operate, and protect the canal, it is quite within the power of the House to determine in what way it should be protected, and whether fortifications are necessary. If fortifications are necessary for protection, then the items in the bill are in order. The Chair therefore overrules the point of order.

1138. A treaty establishing an international institute authorizes an appropriation in a general appropriation bill for sending delegates to the institute.

An appropriation for maintaining an international institute, in excess of the amount provided by treaty as the quota which the United States should contribute for that purpose, is not in order on an appropriation bill.

On March 28, 1912,[1] the diplomatic and consular appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read:

For the payment of the expenses of delegates to the next General Assembly of the International Institute of Agriculture, to be held at Rome, $10,000, or so much thereof as may be necessary, to be expended under the direction and in the discretion of the Secretary of State.

Mr. Martin D. Foster, of Illinois, made the point of order that the appropriation was without authorization of law.

Mr. Everis A. Hayes, of California, argued:

I will state that this paragraph clearly is not subject to the point of order. In that connection I want to call attention to article 2 of the treaty, which provides:

"The institute shall be composed of the general assembly and a permanent committee, the composition and duties of which are defined in the ensuing articles."

Article 3 says:

"The general assembly of the institute shall be composed of the representatives of the adhering governments. Each nation, whatever be the number of delegates, shall be entitled to the number of votes in the assembly which shall be determined according to the group to which it belongs, and to which reference will be made herein in article 10."

In article 10 it is provided that this country comes in group 1, which entitles us to five votes in the general assembly. The general assembly is created by this law, and this provision in the bill is intended to pay the expenses of the delegates to that general assembly from this country.

As has already been stated, a similar appropriation was made to defray the expenses of delegates from this country to the general assembly who attended at the last general assembly, and I can see no possible ground for a point of order against this provision of the bill. Clearly this general assembly is provided for in the existing law, and it certainly will not be claimed that when this general assembly is provided for the House has no authority to pay its expenses. It seems to me very plain that it is not subject to a point of order—

The Chairman[2] overruled the point of order.

Subsequently this paragraph was reached:

For the payment of the quota of the United States for the fiscal year ending June 30, 1913, of the cost of the publications of the International Institute of Agriculture at Rome, $5,000, or so much thereof as may be necessary.

Mr. Thomas U. Sisson, of Mississippi, called attention to a provision in the treaty that—

In any event the contribution due per unit of assessment shall never exceed a maximum of 2,500 francs. As a temporary provision, the assessment for the first two years shall not exceed 1,500 francs per unit. Colonies may, at the request of the nation to which they belong, be admitted to form a part of the institute on the same conditions as independent nations.

and made the point of order that appropriations in excess of this quota having already been made the pending item was in violation of clause 2 of Rule XXI.

The Chairman sustained the point of order.

1139. In determining the extent to which treaties authorize appropriations on appropriation bills, ambiguous provisions are to be construed in favor of authorization.

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[1] Second session, Sixty-second Congress, Record, p. 3949.

[2] Thetus W. Sims, of Tennessee, Chairman.

Where provisions of a treaty are susceptible of conflicting interpretations, questions of doubt are to be resolved in favor of the more liberal construction.

On January 9, 1913,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was read:

For support and maintenance of day and industrial schools among the Sioux Indians, including the erection and repairs of school buildings, $200,000.

Mr. Scott Ferris, of Oklahoma. made the point of order that this appropriation was not authorized by law.

The Chairman[2] said:

The point of order made by the gentleman from Oklahoma, Mr. Ferris, is to the effect that the obligations imposed by the act of 1877 are impressed with a time limit by reason of the reference in section 5 of that act to the act of 1868. In view of this contention it is necessary to consider both the act of 1868 and the act of 1877. Under the act of 1868 the contracting parties respectively assumed certain obligations for value furnished and to be furnished. The treaty of 1868 was one of limited duration. Later, by the act of 1887 the same contracting parties entered into new relations. On the part of the Indians an exceedingly valuable tract of land, a principality, one might say, was ceded to the United States. This cession is referred to in the section cited by the gentleman from Oklahoma, which in part is as follows:

"Art. 5. In consideration of the foregoing cession of territory and rights and upon fun compliance with each and every obligation assumed by the said Indians, the United States does agree to provide all necessary aid to assist the said Indians in the work of civilization; to furnish to them schools and instruction in mechanical and agricultural arts, as provided for by the treaty of 1868."

It is insisted by the gentleman from Oklahoma that this reference to the treaty of 1868 is intended to furnish a time limit for the discharge of the obligations imposed by the act of 1877, that limit being the limit fixed in the treaty of 1868. From the language that the Chair has read it will be seen that there was a cession of property by the Indians, so that a new consideration was afforded for any obligations or undertakings on the part of the United States toward the other contracting parties.

It is also insisted by the gentleman from Oklahoma that in the agreement of 1877 the Indians undertook on their part to go to the Indian Territory, and failing to carry out this undertaking, they have lost their rights against the United States. If the committee will bear with me, I will give the substance of so much of the act of 1877 as relates to the suggested change of habitation to the Indian Territory.

The Indians agreed that a delegation of five or more chiefs and principal men from each band should without delay visit the Indian Territory to examine the land, with a view to making it a permanent home, and if on this examination the report should be favorable and satisfactory to their principals, that is, the Sioux Indians, then the Indians agreed that they would make the change. But a condition precedent was the investigation of this new territory and the requirement that the recommendation, if favorable, should be satisfactory to the Sioux Indians. Until this condition precedent was discharged, there was no obligation whatever on the part of the Indians to change their habitat.

No evidence has been adduced to show that any delegation on the part of the Sioux made the investigation contemplated, or that if they did, and made a report, this report was satisfactory to the principals. Hence there is no reason to conclude that the Sioux have ever incurred any obligation to remove to the Indian Territory, or failed in any duty in this respect.

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[1] Third session Sixty-second Congress, Record, p. 1298.

[2] Edward W. Saunders, of Virginia, Chairman.

Referring again to the section of the act of 1877 in which reference is made to the treaty of 1867, the Chair will cite anew the language used in that connection.

"Art. 5. In consideration of the foregoing cession of territory and rights and upon full compliance with each and every obligation assumed by the said Indians, the United States do agree to provide all necessary aid to assist the said Indians in the work of civilization; to furnish to them schools and instruction in mechanical and agricultural arts, as provided for by the treaty of 1868."

Obviously there are two meanings that may be given to this reference to the treaty of 1868. First, the one suggested by the gentleman from Oklahoma that it is intended thereby to fix a time limit on the obligations of the United States under the act of 1877. Second, that it was intended to save description in the second act and to use the language of the treaty of 1868 to show in detail what was intended by thereby comprehended under the words "to provide all necessary aid to assist the said Indians in the work of civilization, to furnish to them schools and instruction in mechanical and agricultural arts." Under the first suggestion it will be seen that the United States would secure an immensely valuable tract of land, for practically no consideration. If the second view is the correct view, then the United States is merely thereby held to the discharge of obligations which, in the light of what this Government has received from these Indians, are essentially reasonable.

If the interpretation of this treaty is in doubt, then this doubt must be resolved by resort to the fundamental principles for the interpretation of treaties, or agreements between a great nation like ours and aboriginal savages. Obviously these contracting parties are not on an equal footing, and dealing at arm's length. Hence in the construction of the language under consideration, as between the two conflicting views, that one should be adopted which is most favorable to the weaker, and practically helpless party, and which in addition conforms to essential justice by requiring the United States to afford adequate return for the highly valuable consideration furnished by the other contracting party.

The Chair concludes, therefore, that the reference made to the treaty of 1868 was not intended to impose the limitations of the treaty of 1868 on the obligations assumed by the act of 1877, but was designed to save words and avoid a restatement in detail of what the Government assumed to do when it undertook to provide all necessary aid.

Another thing, to which the Chair wishes to call attention is that the act of 1877 and the treaty of 1868 seem to be most highly regarded. I find in the act of 1899 a most unusual provision, to the effect that anything that occurs in the treaty of 1868 and the agreement of 1877 is to be held as in force, anything in the act of 1889 to the contrary notwithstanding.

Of course, as a rule as between subsequent and antecedent acts, if there is any conflict between the two relating to one subject matter, there is a repeal by implication of the former act, but in this instance it is provided that in case of conflict the subsequent statute shall give way to the antecedent acts. This provision clearly shows that this Government reestablished by the act of 1889 in the most emphatic fashion the rights of the Indians under the treaty of 1868 and the agreement of 1877.

Since these agreements are made the repository of the Indians' rights, they should be favorably construed in their interests according to the principles cited.

Looking to the treaty of 1868 and the agreement of 1877 it is clear that the Government undertook to do many things for the Indians, and specifically agreed to assist them in the work of civilization.

It is familiar authority that once a policy is established by law, Congress may appropriate to carry out that policy, and provide for the agents and agencies, fairly within the same. If a department is authorized to make investigations, an appropriation bill may provide for the agents needed for this purpose. Under the head of assisting these Indians in the work of civilization, many things may be appropriated for.

The Chair, not take up any further time of the committee, but looking to the provision for the payment of teachers, for physicians, blacksmiths, and additional employees, as well as well as for the other items it is perfectly clear that if there is no time limit on the obligations of the Government under the act of 1877, and this has been fully discussed, then there is an existing obligation

on the part of the Government of the United States to make those appropriations to which the point of order relates. The Chair, therefore, overrules the point of order.

1140. A treaty sanctioning employment of counsel to represent an international court was held not to authorize employment of counsel to represent this Government before such court.

On February 20, 1915,[1] the diplomatic and consular appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

For the payment of necessary expenses, not to exceed the sum of $5,000, incurred, and compensation for services rendered under the direction of the Secretary of State in the examination and preparation of cases involving the use, distribution, or division of waters and other questions or matters of difference covered by the treaty of January 11, 1909.

And in representing this Government and the American interests involved in the presentation of such cases before the International Joint Commission constituted under that treaty.

A point of order having been made against the paragraph by Mr. William E. Humphrey, of Washington, the Chairman[2] ruled:

The Chair has considered all the arguments on this point of order and regrets that he is unable to agree with the gentlemen who desire to retain this appropriation in the bill. The Chair views it that here is a high court, created for the consideration of cases between Canada and the United States. He views it that this commission have the right to incur expenses for clerical services and matters of that kind and to pay them out of the appropriation, according to the terms of the treaty. But the Chair does not feel that we have the right to limit any item in this appropriation bill except to pay—

"For services rendered under the direction of the Secretary of State in the examination and preparation of cases involving the use, distribution, or division of waters and other questions or matters of difference covered by the treaty of January 11, 1909, between the United States and Great Britain, and in representing this Government and the American interests, involved in the presentation of such cases before the international joint commission constituted under that treaty."

The distinction the Chair makes is that here is an attempt to employ counsel, not to advise the commission but to act under the direction of the Secretary of State in preparing cases to be presented to this commission, an absolutely different situation. The counsel is not to act under the direction of the commission; he is to act under the direction of the Secretary of State, and his whole duties are to present the suits in which the United States Government and the American interests are involved before the court. It is as distinct as if we should say that the court had a right to employ counsel to represent John Smith before it. It looks like an effort to use the treaty and the fund provided for salaries of the commission and other officials in the employment of counsel to present cases involving American interests. The Chair does not know what those interests are which are referred to, but if they need counsel there ought to be another appropriation for that purpose. Hence the Chair sustains the point of order.

1141. A convention with foreign nations organizing and establishing an international association was held to justify an appropriation for its support.

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[1] Third session Sixty-third Congress, Record, p. 4229.

[2] Charles J. Linthicum, of Maryland, Chairman.

April 6, 1922,[1] the appropriation bill for the Departments of State and Justice was under consideration in the Committee of the Whole House on the state of the Union, when Mr. James W. Husted, of New York, offered this amendment:

Pan American Union, $100,000: *Provided,* That any moneys received from the other American Republics for the support of the union shall be paid into the Treasury as a credit, in addition to the appropriation, and may be drawn therefrom upon requisitions of the chairman of the governing board of the union for the purpose of meeting the expenses of the union and of carrying out the orders of the said governing board.

Mr. Thomas L. Blanton, of Texas, made the point of order that the amendment involved legislation:

After debate the Chairman[2] said:

Under the act of July 14, 1890, the Congress organized and established under the direction of the Secretary of State the International Union of American Republics. It is true that that legislation was on an appropriation bill, but no objection was made and it became and was permanent law. There has been no change or modification, so far as the Chair is able to learn, of this organization and the establishment of this union except as to the name. The agreement referred to by the gentleman from Texas between the members of the union is as follows:

"Any of the Republics may cease to belong to the Union of American Republics upon notice to the governing board two years in advance. The Pan American Union shall continue for successive terms of 10 years, unless 12 months before the expiration of such term a majority of the members of the union shall express the wish to the Secretary of State of the United States of America to withdraw therefrom on the expiration of the term."

The Chair thinks that this agreement has not expired and that the notice was not served which would in any manner terminate our relations with the Pan American Union. The Chair, therefore, overrules the point of order.

1142. A treaty providing for mutual reports by contracting nations to an international bureau was held to sanction appropriations for the bureau's maintenance although no treaty had been entered into providing for establishment of the bureau.

On April 7, 1922,[3] the appropriation bill for the Departments of State and Justice was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

For the annual share of the United States for the maintenance of the International Sanitary Bureau for the year 1923, $11,323.16.

Mr. Thomas L. Blanton, of Texas, made the point of order that there was no authority for the provision.

Mr. James W. Husted, of New York, said:

Mr. Chairman, the International Sanitary Bureau has been recognized in a treaty which has been ratified by the United States Senate, and I think that is sufficient authorization to support the appropriation. This is the treaty known as the International Sanitary Convention, concluded October 14, 1905, ratification advised by the Senate February 22, 1906, ratified by the President May 29, 1906, and proclaimed March 1, 1909. Article 10 of that treaty is as follows:

"The Government of each country is obliged to immediately publish the measures which it believed necessary to take against departures either from a country or from an infected territorial area.

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[1] Second sesion Sixty-seventh Congress, Record, p. 5137.

[2] Cassius C. Dowell, of Iowa, Chairman.

[3] Second session Sixty-seventh Congress, Record, p. 5191.

"The said Government is to communicate at once this publication to the diplomatic or consular agent of the infected country residing in its capital as well as to the International Sanitary Bureau."

The Chairman [1] ruled:

In the opinion of the Chair this provision is for the purpose of carrying out this treaty, and therefore the Chair overrules the point of order.

This is, in effect, a treaty.

1143. A treaty entering into mutual agreement to reduce the number of combat ships maintained by the high contracting parties was held to authorize appropriations for the conversion of such ships.

On February 12, 1931,[2] the Committee of the Whole House on the state of the Union was considering the naval appropriation bill.

When the paragraph providing for repair and preservation of naval vessels and equipment was reached, Mr. Menalcus Lankford, of Virginia, offered this amendment:

Provide further, That in order to convert the U.S.S. *Wyoming* into a training ship and the U.S.S. *Utah* into a target ship, in accordance with the terms of the treaty for the limitation and reduction of naval armament, signed at London on April 22, 1930, there shall be available $779,000 of the appropriations for the fiscal year 1931, as follows: Engineering, Bureau of Engineering, 1931, $210,000; construction and repair, Bureau of Construction and Repair, 1921, $535.000; and Ordinance and Ordnance Stores, Bureau of Ordnance, 1931, $343,000.

Mr. James V. McClintic, of Oklahoma, interposed a point of order.

The Chairman [3] held:

The Constitution of the United States, Article VI, provides that—

"This Constitution and the laws of the United States which shall be made in pursuance thereof; and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land."

A treaty entered into and properly ratified and proclaimed is the law of the land and repeals any previous statute. Conversely, if Congress should thereafter pass a statute which receives the approval of the President, in conflict with a treaty, the later law governs, because treaties and statutes are on the same basis, both being the supreme law of the land while they are in force. Consequently, any authorization carried in a treaty is the basis of an appropriation, just as if it were an authorization passed by an act of Congress.

The only question that remains to be considered is this: Is the language of the treaty which provides that these three ships shall be scrapped as combat ships and which permits one to used as a target ship and one to be retained as a training ship merely permissive positions which the Congress must determined to avail itself of by statute. Any doubt that might be entertained on that subject is obviated by section 468 of title 5 of the United States Code, which was quoted by the gentleman from Idaho, the chairman of the subcommittee in charge of the bill.

In order to make the proposition clear the Chair will quote the language of section 468—

"The Secretary of the Navy shall report to Congress at the commencement of each regular session the number of vessels and their names upon which any repairs or changes are proposed which in any case shall amount to more the $300,000, the extent of such proposed repairs and changes, and the amount estimated to be needed for the same in each vessel; and the expenditures for such repairs or changes so limited shall be made only after appropriations in details are provided for by Congress."

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[1] Cassius C. Dowell, of Iowa, Chairman.

[2] Third session Seventy-first Congress, Record, p. 4732.

[3] Frederick R. Lehlbach, Chairman.

This is legislation which amply authorizes an appropriation for repairs and changes without further law, and removes any question that may remain as to the treaty itself being an authorization for the appropriation. The point of order is therefore overruled.

1144. Constitutional provisions, however explicit, are not sufficient to warrant appropriations not previously authorized by law.[1]

On May 24, 1910,[2] the House was considering the sundry civil appropriation bill in the Committee of the Whole House on the state of the Union, when Mr. James A. Tawney, of Minnesota, offered an amendment providing an appropriation to enable the President to secure information to assist him in the discharge of the duties imposed upon him by the tariff act approved August 5, 1909.

Mr. John J. Fitzgerald, of New York, made the point of order that the amendment was not authorized by law.

Mr. Tawney contended in rebuttal that it was sanctioned under the constitutional provision authorizing the President to transmit to Congress information on the state of the Union.

The Chairman,[3] said:

That portion of the amendment which provides—

"To enable the President to give to Congress information of the state of the Union and recommend to their consideration such measures as he shall judge necessary"—is the language of the Constitution. Of course no one will suggest for a moment that the Constitution is not the law of the land. It is the supreme law of the land, in force not only in the House, but everywhere else in the country; and the question arises whether, under the provision of the Constitution giving to the President the authorization that he may from time to time give to Congress information of the state of the Union and recommend to their consideration such measures as he shall judge necessary and expedient, it is in order under Rule XXI to make an appropriation for employment of persons to enable the President to acquire information or to assist him in this purpose.

Would it be in order for any gentleman on the floor of the House to offer an amendment for an appropriation to enable the President from time to time to give to the Congress information of the state of the Union and recommend to their consideration such measures as he shall judge necessary and expedient—$100,000,000 or $1,000,000—to be expended by him as he pleases, without any control by legislation or by the appropriation? Is this provision of the Constitution such a warrant that Congress may, without legislation, without previous authorization, by a mere appropriation, give to the President such sum as Congress may see fit to give, with no control over it? If such a ruling were to be held sound, it seems to the present occupant of the chair that it would go a long way toward establishing autocracy of the Executive and depriving the Congress of power in the Government.

Nor can the present occupant of the chair believe that the right of the President to give to Congress information of the state of the Union and recommend to their consideration such measures as he shall judge expedient is a sufficient foundation for Congress to appropriate money under Rule XXI, not previously or otherwise authorized by law, to expend as the Executive may deem fit and without any control over it; and it seems to the Chair that the provision of the amendment to include the employment of such persons as may be required on the part of the Executive, only limited by the sum of $250,000, to be used as he may see fit, for the purpose of giving information to Congress and recommending such measures as he may judge necessary and expedient—that that portion of the amendment is obnoxious to clause 2 of Rule XXI, which prohibits an appropriation

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[1] See, however, section 1248 of this volume.

[2] Second session Sixty-first Congress. Record, p. 6803.

[3] James R. Mann, of Illinois, Chairman.

not previously authorized by law and prohibits a proposition which shall change existing law. For that reason the Chair feels constrained to sustain the point of order.

Mr. Tawney having appealed from the decision of the Chair, the decision was sustained, yeas 136, nays 3.

1145. Previous enactment of items of appropriation unauthorized by law does not justify similar appropriations in general appropriation bills.

On April 14, 1914,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union.

To a paragraph providing for personnel in the office of the Attorney General Mr. Joseph T. Johnson, of South Carolina, offered this amendment:

Insert "six Assistant Attorneys General, at $5,000 each."

Mr. James R. Mann, of Illinois, made the point of order against the amendment.

The Chairman,[2] held:

The only law that has been suggested to the Chair authorizing more than three Assistant Attorneys General is the appropriation act of last June, and that simply makes an appropriation for seven Assistant Attorneys General, and in no way makes it permanent law. Therefore the statute authorizes only three, and this is clearly without authority of law, and the Chair sustains the point of order.

1146. On January 7, 1920,[3] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the paragraph was reached providing for the relief and care of destitute Indians.

Mr. James R. Mann, of Illinois, made a point of order that there was no law authorizing the expenditure.

Mr. Homer P. Snyder, of New York, said:

It has been carried in the bill for years.

After debate, the Chairman[4] sustained the point of order.

1147. On January 15, 1920,[5] the Post Office Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the following paragraph was read:

For inland transportation by railroad routes, including increases hereinafter provided, $60,000,000: *Provided,* That not to exceed $1,250,000 of this appropriation may be expended for pay of freight and incidental charges for the transportation of mails conveyed under special arrangement in freight trains or otherwise: *Provided further,* That out of this appropriation the Postmaster General is authorized to expend not exceeding $850,500 for the purchase of aeroplanes and the operation and maintenance of aeroplane mail service between such points, including service to and between points in Alaska, as he may determine.

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[1] Second session Sixty-third Congress, Record, p. 6695.

[2] John N. Garner, of Texas, Chairman.

[3] Second session Sixty-sixth Congress, Record, p. 1186.

[4] Nicholas Longworth, of Ohio, Chairman.

[5] Second session Sixty-sixth Congress, Record, p. 1584.

Mr. Leonidas C. Dyer, of Missouri, raised a question of order against the last proviso in the paragraph.

The Chairman [1] ruled:

The point of order is made to the language beginning "*Provided further*" down to and including the word "determine." The Chair finds upon examination of the previous acts that in 1917 the Postmaster General was authorized to expend not exceeding $100,000 for the purchase, operation, and maintenance of aeroplanes, for experimental aeroplane mail service between such points as he may determine; and furthermore, in the act of May 10, 1918, the Postmaster General in his discretion was authorized to require the payment of postage on mail carried by aeroplane at not exceeding 24 cents per ounce or fraction thereof. The fact that the establishment of this particular class of service was provided for in an appropriation bill and may have been continued in another appropriation bill the succeeding year, would not, in the opinion of the Chair, be sufficient justification for the claim that it would not be subject to a point of order, if the point of order be made. In the view of the Chair, the Post Office Department is not authorized by any existing law to establish as a permanent class of service the carriage of mail by aeroplane. Section 3965 of the Revised Statutes provides for the carrying of mail on all post roads, but that would not apply to the carrying of mail through the air. The Chair is inclined to believe that the provision of this statute, enacted some 40 or 50 years ago, could hardly have been intended to comprehend the carriage of mail by air route, neither does the Chair believe that this appropriation can be justified on the ground that it is a continuation of a public work or a service heretofore authorized by law, and the Chair therefore sustains the point of order.

1148. On January 14, 1920,[2] the Post Office Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

For conducting experiments in the operation of motor vehicle truck routes; also for experiments in the operation of county motor express routes, which shall be operated primarily as a means of expediting the transportation of fourth-class mail between producing and consuming localities, and shall not displace nor supplant any existing methods of mail transportation or delivery, which two classes of experiments shall be conducted hereafter under such rules and regulations, including modifications in rates of postage, limit of weight and size, and wrapping and packing requirements, as the Postmaster General may prescribe, $300,000.

Mr. J. N. Tincher, of Kansas, made the point of order that appropriations for such experiments were not authorized by law.

Mr. Clyde M. Kelly, of Pennsylvania, submitted that similar provisions had been carried in former appropriation bills.

The Chairman [1] held:

The language of the acts to which the gentleman from Pennsylvania referred, namely, those pertaining to the parcel post, in the view of the Chair are not sufficient to sustain the contention that in this act we can carry language providing for the operation of motor vehicle truck routes, and so forth. And, as the gentleman from Illinois, Mr. Mann, has well said, the carrying of this item in the annual appropriation bill is not sufficient justification, if the point of order be made at the time the appropriation is pending, against the language seeking to provide for the continuation of the experiment. Furthermore, as the gentleman from Michigan, Mr. Cramton, has pointed out, it is apparently sought to make this permanent law by inserting the word

[1] Joseph Walsh, of Massachusetts, Chairman.

[2] Second session Sixty-sixth Congress, Record p. 1596.

"hereafter." Neither can the language be justified on the ground that it is a continuation of a public work.

The Chair therefore sustains the point of order.

1149. A statute prohibits payment of the compensation or expenses of any board, commission, or similar body from funds appropriated by Congress unless the creation of such body shall have been authorized by law.

Appropriations in former bills do not authorize similar appropriations for the same purpose in subsequent bills.

On June 20, 1930,[1] during the consideration of the second deficiency appropriation bill, this paragraph was read:

Investigation of enforcement of prohibition and other laws: For continuing the inquiry into the problem of the enforcement of the prohibition laws of the United States, together with enforcement of other laws, pursuant to the provisions therefor contained in the first deficiency act, fiscal year 1929, to be available for each and every object of expenditure connected with such purposes, notwithstanding the provisions of any other act, and to be expended under the authority and by the direction of the President of the United States, who shall report the results of such investigation to Congress, together with his recommendations with respect thereto, fiscal year 1931, $250,000 together with the unexpended balance of the appropriation for these purposes contained in the first deficiency act, fiscal year 1929, which shall remain available until June 30, 1931.

Mr. Fiorello H. LaGuardia, of New York, having raised a question of order, Mr. William R. Wood, of Indiana, pointed out that the paragraph had been carried in former appropriation bills.

Mr. LaGuardia cited section 673 of title 31 of the United States Code, reading:

No part of the public moneys or of any appropriations made by Congress shall be used for the payment of compensation or expenses of any commission, council board, or other similar body, or any members thereof, or for expenses in connection with any work or the results of any work or action of any commission, council, board, or other similar body, unless the creation of the same shall be or shall have been authorized by law.

Nor shall there be employed, by detail hereafter or heretofore made, or otherwise, personal services from any executive department or other Government establishment in connection with any such commission, council, board, or similar body.

The Chairman[2] ruled:

The Chairman of the committee, the gentleman from Indiana, has conceded the point of order, but in the opinion of the present occupant of the chair it is incumbent upon every Chairman to act upon an opinion of his own. The Chair is of the opinion that the point of order is well taken. The gentleman from New York read the statute with reference to the payment of money to commissions appointed without legal authority. The Chair does not find any pertinency in that discussion, because clearly under the legislation which was contained in the deficiency appropriation act of March 4, 1929, authority was given for the expenditure of $250,000, but that expenditure was limited to the fiscal years 1929 and 1930. Therefore the authorization which was contained in the appropriation act of March 4, 1929, is no longer in force, and the Chair sustains the point of order.

1150. An appropriation for an object unauthorized by law, however frequently made in former years, does not warrant similar appropriations in succeeding years.

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[1] Second session Seventy-first Congress, Record, p. 11340.

[2] Carl R. Chindblom, of Illinois, Chairman.

The recent tendency is to narrow the range of projects to which the rule admitting appropriations in extension of public works is applicable.

The construction of a road, although in extension of roads already built, was held not to be in continuation of a public work.

On February 21, 1917,[1] Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

Construction, repair, and maintenance, military and post roads, bridges, and trails, Alaska: For the construction, repair, and maintenance of military and post roads, bridges, and trails, Territory of Alaska, $500,000.

Mr. William Gordon, of Ohio, made the point of order that there was no authority of law for the expenditure.

The Chairman[2] said:

The fact that appropriations have been made from year to year in an appropriation bill does not make a continuance of such appropriations in order if the appropriation was ever out of order.

Thereupon Mr. Julius Kahn, of California, offered the following amendment:

Protection, repair, and maintenance of military post roads, bridges, trails, Alaska: For the completion. repair, and maintenance of military post roads, bridges, and trails, Territory of Alaska, $500,000.

Mr. Gordon having made the point of order against the amendment, Mr. Kahn contended that it provided for the continuation of a work in progress.

The Chairman ruled:

In the first place, the Chair will say that there has been a tendency to narrow the application of that principle. But entirely apart from that tendency, the committee which proposes to appropriate for a work in progress should have some original authority in that connection. This authority is entirely lacking in this committee in the present connection. If there is any authority anywhere to appropriate for these roads, as a work in progress, that authority is not found in this committee. Under the act which the Chair has read this committee is not authorized to make appropriations for the Alaskan roads. A special fund for the construction of these roads is provided in the Alaskan act. That provision does not give the right to this committee, either by virtue of the principle of a work in progress, or on any other ground, to appropriate for the roads in question.

The Chair referred to the tendency being to limit the application of the principle of making appropriations for work already in progress. In that connection I desire to read a citation which has just been handed to me:

"But later decisions, in view of the indefinite extent of the practice made possible by the early decisions, have ruled out propositions to appropriate for new buildings in navy yards."

What could be a larger application of this principle than to hold that if this board has outlined a large scheme of road construction in Alaska, and done some work here and there in connection with the same, this committee, or any committee, is thereby authorized to appropriate the funds necessary to complete every road contemplated by that scheme or project?

In the act which the Chair has cited, section 29, there is an elaborate provision for road construction in Alaska by a board to be composed of an engineer officer of the United States, two other officers, and so on. At the close of that section it is specifically stated that the cost and expense of laying out, constructing, and repairing these roads and trails in the Territory shall

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[1] Second session Sixty-fourth Congress, Record, p. 3818.

[2] Edward W. Saunders, of Virginia, Chairman.

be paid by the disbursing officer out of the "roads and trails" portion of the Alaskan fund. The Chair thinks that the point of order directed to this paragraph is well taken, and it is therefore sustained.

1151. Whether appropriations for purposes unauthorized by law have been carried in prior appropriation bills is not material in determining whether appropriations for such purposes are in order in succeeding years.

The question as to the pertinency of court decisions predicated on legislation subject to points of order at the time of enactment.

An appropriation for completing governmental activities undertaken during the war under the food control act was held in order on an appropriation bill.

On April 24, 1924,[1] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A point of order advanced by Mr. Joseph W. Byrns, of Tennessee, was pending on a paragraph making appropriation to enable the Bureau of Agricultural Economics to complete certain work conducted during the war under the food control act and corollary laws.

In debating the question, Mr. William J. Graham, of Illinois, took the position that while there might be ground for doubt as to authority of law, the fact that Congress has repeatedly made appropriations for this work validated it to the extent of authorizing the proposed expenditure.

The Chairman,[2] held:

The Chair does not think that the fact that items of appropriation have been carried in prior appropriation bills has any force or effect in determining whether like provisions in a pending bill are in order. The Chair has a good deal of doubt also as to whether the decisions of courts predicated upon legislation passed by Congress, which may or may not have been subject to points of order at the time the legislation was passed, have any real importance or efficacy in the determination of a point of order.

The history of the legislation has been set forth by those who contend that the paragraph in question in this bill is in order. They have called attention to legislation which in the opinion of the Chair tends to support the paragraph in the bill, and the Chair is inclined to believe that the burden of proof has shifted to the gentlemen who insist that the legislation is out of order to show that the legislative authority cited is not complete for the purpose of making this legislation in order. Under the act of August 29, 1916, an Army appropriation bill, there was created the Council of National Defense. This, as the Chair understands it, was largely an advisory commission; but under the authority of that act there was formed the Wax Industries Board, subsidiary to the Council of National Defense, and under an Executive order of May 28, 1918, No. 2868, the President established this board as a separate administrative agency to act for and under his direction. The Chair will not take the time to read the paragraphs of the law sustaining this statement.

The food control act of August 10, 1917, empowered the President to requisition food, feed, fuel, and other supplies necessary for the support of the Army, and the Chair calls attention to section 2 of that act of August 10, 1917, which reads as follows:

"That in carrying out the purposes of this act the President is authorized to enter into any voluntary arrangements or agreements to create and use any agency or agencies, to accept the services of any person without compensation, to cooperate with any agency or person, to utilize any department or agency of the Government, and to coordinate their activities so as to avoid any preventable loss or duplication of efforts or funds."

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[1] First session Sixty-eighth Congress, Record, p. 7081.

[2] Carl R. Chindblom, of Illinois, Chairman.

The Chair calls attention particularly to the words—

"to utilize any department or agency of the Government."

The title of that act reads as follows:

"An act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel."

This act terminated by its terms at the end of the war, but there were some functions which had been exercised under that act which did not so terminate. The Chair calls attention to section 24 of the food control act of August 10, 1917:

"That the provisions of this act shall cease to be in effect when the existing state of war between the United States and Germany shall have terminated, and the fact and date of such termination shall be ascertained and proclaimed by the President; but the termination of this act shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil case before the said termination pursuant to this act; but all rights and liabilities under this act arising before its termination shall continue and may be enforced in the same manner as if the act had not terminated. Any offense committed, and all penalties, forfeitures, or liabilities incurred prior to such termination may be prosecuted or punished in the same manner and with the same effect as if this act had not been terminated."

Under section 2 of this same act the President had authority to utilize any department or agency of the Government for the purposes of the act. It appears from the language in the pending paragraph itself that this legislation is based upon an Executive order dated December 31, 1918. That date occurred prior to the termination of the war as proclaimed by the President. The order transferred the work of the domestic wool section of the War Industries Board to the Bureau of Agricultural Economics.

It seems to the Chair, therefore, that the order of the President transferring the work of the domestic wool section of the War Industries Board to the Department of Agriculture must be considered to have been authorized by law. The gentleman from Tennessee makes the point that the paragraph in question authorizes activities not contemplated or permitted under the war legislation. The Chair does not find anything in the language of the paragraph which indicates exactly how this money is to be spent, except that it is—

"to enable the Bureau of Agricultural Economics to complete the work of the domestic wool section of the War Industries Board and to enforce Government regulations for handling the wool clip of 1918 as established by the wool division of said board pursuant to the Executive order of December 31, 1918, transferring such work to the said bureau."

The subsequent language only enlarges or further describes the purpose of the appropriation, namely:

"To continue, as far as practicable, the distribution among the growers of the wool clip of 1918 of all sums heretofore or hereafter collected or recovered with or without suit by the Government from all persons, firms, or corporations which handled any part of the wool clip of 1918."

It does not appear from the language of the paragraph that this money is to be used for any other purpose than to carry out the purpose of the activities of the domestic wool section of the War Industries Board, which, as the Chair has attempted to state, were legally and properly transferred by the President prior to the termination of the war to the Agricultural Department. While the Chair concedes that there is much difficulty in the solution of this question, on the whole the Chair is of the opinion that there is sufficient authority for the appropriation, and overrules the point of order.

1152. A provision for the reappropriation of a sum required by law to be covered into the Public Treasury was held not to be a change of law, and not to be an appropriation beyond the limit of cost.

On January 20, 1910,[1] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was read:

The amounts hereinafter stated, deposited in the Treasury in accordance with the requirements of the act approved March 4, 1909, section 10 (35 Stat. L., p. 1027) are hereby reappropriated and made available for expenditure for the purposes for which they were originally appropriated as follows, namely: Navy-yard, Mare Island, Cal.: Shipwright's shop for construction and repair, $19,570.56; light and power station building, $28,565.90; in all, $48,136.46.

Mr. John J. Fitzgerald, of New York, reserved a point of order on the paragraph, and said:

Mr. Chairman, I desire to call the attention of the committee to what is proposed to be done here. Before I entered Congress an appropriation was made, by the act approved March 4, 1899, to construct a shipwright's shop at the Mare Island Navy Yard. The appropriation was made and the work was authorized, apparently because it was essential to the Mare Island Navy Yard that this shop should be built. On the 4th of March last, in the sundry civil act, it was provided that all unexpended balances on the books of the Treasury Department, on the first of July, 1904, should be covered into the general fund, unless at the time of the passage of the sundry civil act, March 4, 1909, the money was obligated by contract for some particular work. For ten years this money had lain idle in the Treasury to the credit of this work, for the purpose of enabling the Navy Department to initiate and erect this shop, so essential to the work in the navy yard at Mare Island. Then it was ascertained that under the provisions of the sundry civil act the money had to be turned into the Treasury. In reality, the money had remained unexpended for ten years, and no contract even had been made which was then in existence under which the money was obligated to be paid.

It seems to me, Mr. Chairman, that the appropriation having been made, the authority under the act authorizing the building is exhausted, and this is, in effect, an appropriation beyond the limit of cost, or, at any rate, it must change the law under which the money was converted back into the Treasury, and so is subject to the point of order.

The Chairman[2] said:

In the United States Statutes at Large, Volume 35, page 27, section 10 reads as follows:

"The Secretary of the Treasury shall cause all unexpended balances of appropriations which remained on the books of the Treasury on the first day of July, 1904, except permanent specific appropriations, judgments and findings of courts, trust funds, and appropriations for fulfilling treaty obligations with the Indians, to be carried to the surplus fund and covered into the Treasury: *Provided,* That such sums of said balances as may be needed to pay contracts existing and not fully discharged at the date of this act shall remain available for said purposes. For the purposes herein declared no appropriation made prior to July 1, 1904, shall be construed to be a permanent specific appropriation unless by its language it is specifically and in express terms made available for use until expended."

In view of the statute, the Chair would like to ask whether this paragraph in the bill involves a change of law?

Mr. James A. Tawney, of Minnesota replied:

It is not a change of law. This does not repeal the law which authorized the construction of the shipwright shop, nor the construction of the power plant. The shipwright-shop law was passed March 3, 1899, Thirtieth Statutes at Large, page 1045. The act authorizing the light and power station building was passed March 3, 1903, Thirty-second Statutes at Large, page 1187.

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[1] Second session Sixty-first Congress, Record, p. 854.

[2] David J. Foster, of Vermont, Chairman.

Now, these works were in progress at the time of the act of March 4, 1909, and two contractors had failed on account of delay incident to the physical conditions surrounding the construction of the foundation of the shipwright shop and the construction of the dry dock. The delays, it seems, were responsible for the two contractors failing, and the work had to be stopped entirely. But the remaining amount—the unexpended balance of the appropriation—was not obligated; and, in my judgment, although it was not obligated, I think the Navy Department was altogether too hasty in stopping the work as soon as the act of March 4, 1909, was passed, and turning the money back into the Treasury.

The fact that under the requirements of that law the unexpended balances of these two appropriations should be turned back into the Treasury does not affect the law that authorized the construction of these two projects, and therefore Congress can appropriate now for the balance necessary to complete these projects, as well as it could appropriate in the first instance.

It is a work in progress, but not a work in progress alone; it is a work that is being done in accordance with authority of law. All they need to complete it is the appropriation. Now, the fact that the act of 1909 turned back into the Treasury part of the appropriation did not affect the original authority under which these two projects are being carried on.

The common practice of Congress has been to reappropriate unexpended balances. That has always been the practice of Congress, to reappropriate unexpended balances, where the unexpended balances have been turned back into the Treasury by virtue of the covering-in act, which was passed in 1874. The reference to the first statute is Thirtieth Statutes at Large, page 1045. If the Chair has the two statutes authorizing the projects, he will see that the one was authorized March 3, 1899, and the other was authorized in the act approved March 3, 1903.

The Chairman thereupon overruled the point of order.

1153. The reappropriation of an unexpended balance for an object authorized by law may be made on an appropriation bill.

On February 18, 1910,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the paragraph was reached making available certain unexpended balances.

Mr. William H. Stafford, of Wisconsin, having made the point of order, the Chairman[2] said:

The Chair is ready to rule upon the point of order made by the gentleman from Wisconsin. That point is made against the proviso:

"That the unexpended balances of all continuing appropriations heretofore made for allotment work, general or specific, are hereby made available for the purposes enumerated herein."

Now, there is no allegation that the purposes enumerated herein are not authorized by law, and they seem in fact to relate to allotments. The Chair thinks that it is competent to appropriate unexpended balances. The Chair understood the gentleman from Wisconsin to suggest that the moneys might heretofore have been appropriated for some other purpose than that enumerated herein, but, even so, the Chair finds several precedents, one of them in section 3591 of volume 4 of Hinds' Precedents, which states in the caption:

"The reappropriation of an unexpended balance for an object authorized by law may be made on an appropriation bill."

In that case the Postmaster General was authorized to apply to the payment of the salaries of letter carriers the sum of the unexpended balance of an appropriation which had been made for letter boxes. From that and other precedents it seems perfectly clear to the Chair that it is proper in this bill to provide that the unexpended balance for continuing the appropriation heretofore made for allotment work may be made available for the purposes mentioned in this bill, particularly as the said purposes appear from a very hasty reading to relate exclusively to allotments. The Chair therefore overrules the point of order.

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[1] Second session Sixty-first Congress, Record, p. 2094.

[2] Marlin E. Olmsted, of Pennsylvania, Chairman.

1154. A proposition which would be in order if provided through a new appropriation is in order if provided from an unexpended balance.

A proposal authorizing the Secretary of the Navy to expend unobligated balances for labor-saving devices was held to be in order on an appropriation bill.

On May 16, 1930,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph was read providing for contingent expenses and including the following:

Provided, That any unexpended or unobligated balances under appropriations for salaries in the Navy Department for the fiscal year 1930 may, with the approval of the Secretary of the Navy, be expended for the purchase, exchange, or rental of labor-saving devices during the fiscal year 1931.

Mr. Fred A. Britten, of Illinois, having raised a question of order, the Chairman[2] ruled:

It appears to the Chair that the question here is whether this provision, which authorizes the Secretary to expend during the fiscal year 1931 certain unexpended balances from appropriations for the fiscal year 1930, imposes a new duty upon him and would therefore constitute legislation not in order on an appropriation bill.

The gentleman from Idaho, Mr. French, has cited to the Chair a provision of law under which it appears that the various appropriations, general, specific, and contingent, for each bureau in the Navy Department must be kept separate in the Treasury. That being the present law, it seems to the Chair that there would be nothing within the discretion of the Secretary to determine as to whether there was any unexpended or unobligated balance in any appropriation item after the close of the fiscal year 1930. In other words, it would be merely a question of fact disclosed by the books of the Treasury Department. Therefore, this language imposes no new duty on the Secretary as to determining whether there does in fact exist any unexpended balance in the appropriation for salaries for the fiscal year 1930. After the beginning of the fiscal year 1931 it will be a known fact whether such unexpended balances exist.

Now, as to whether it is in order on this appropriation bill to appropriate any unexpended balances out of items in the appropriations for 1930, the Chair thinks it is in order to do that. If the purpose is one for which there is authority of law, it is as much in order to appropriate for the purpose out of an unexpended balance as it would be to make an entirely new appropriation. The Chair does not understand that any question has been raised as to the right to appropriate money to be expended by the Secretary for the purchase of labor-saving devices. If this would be in order as an entirely new appropriation, it is in order out of an unexpended balance.

The Chair is of the opinion, therefore, that this is an appropriation for a purpose authorized by law, is not new legislation, and overrules the point of order.

1155. The reappropriation of unexpended balances, even for another lawful purpose than that for which originally appropriated, is in order on an appropriation bill.

On April 5, 1910,[3] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was read:

The Secretary of the Navy is hereby authorized to utilize toward yard development of the naval station, Pearl Harbor, Hawaii, the sum of $35,000 appropriated by the act of June 29,

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[1] Second session Seventy-first Congress, Record, p. 9098.

[2] Homer Hoch, of Kansas, Chairman.

[3] Second session Sixty-first Congress, Record, p. 4308.

1906, for the reclamation of that portion of the naval station, Honolulu, Hawaii, known as "The Reef."

Mr. John J. Fitzgerald, of New York, made a point of order against the paragraph.

After debate, the Chairman [1] ruled:

The act of June 29, 1906, seems to have made an appropriation for the reclamation of that portion of the naval station at Honolulu known as the Reef. The proposition in the bill is that the Secretary of the Navy is hereby authorized to utilize toward yard development of the naval station, Pearl Harbor, Hawaii, the sum of $35,000, appropriated by the act of June 29, 1906, for the reclamation of that portion of the naval station, Honolulu, known as the Reef.

It has been frequently held that it is in order to appropriate an unexpended balance, and in some cases where the unexpended balance was for another purpose.

I read from Hinds' Digest, volume 4, page 394:

"A paragraph was read in the Post Office appropriation bill: 'The Postmaster General is authorized to apply to the payment of the salaries of letter carriers for the fiscal year ending 1897 the sum of $23,000, being an unexpended balance of $13,500 of the appropriation for the current fiscal year for street letter boxes, posts, and pedestals, and an unexpended balance of $9,500 of the appropriation for the current fiscal year for package boxes.' "

A point of order was made to the paragraph, but the point of order was not sustained.

It seems to the Chair that where Congress has made an appropriation for a specific purpose and the money is still unexpended, it is within the power, under the rules of the House, to appropriate that money to another lawful purpose. The Chair understands that is the proposition in this paragraph, and the Chair therefore overrules the point of order.

1156. Reappropriations of unexpended balances to be in order on appropriation bill must specify amounts and from what previous appropriation remaining, and be for similar objects.

On January 30, 1915,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the following paragraph was read:

Aeronautics: The sum of $1,000,000 is hereby reappropriated, out of the total unobligated balances of all annual appropriations for the Naval Establishment for the fiscal year ending June 30, 1914, and made available for aeronautics, to be expended under the direction of the Secretary of the Navy for procuring, producing, constructing, operating, preserving, storing, and handling aircraft and appurtenances, maintenance of aircraft stations, experimental work in development of aviation for naval purposes, and such other aeronautical purposes as the Secretary of the Navy may deem proper.

Mr. James R. Mann, of Illinois, made a point of order against the paragraph.

The Chairman [3] ruled:

The point of order is made by the gentleman from Illinois. It appears that it has heretofore been decided that a reappropriation of an unexpended balance for an object authorized by law may be made on an appropriation bill for a similar object.

On February 12, 1897, the Post Office appropriation bill was under consideration in Committee of the Whole when the paragraph was read:

"The Postmaster General is authorized to apply to the payment of the salaries of letter carriers for the fiscal year 1897 the sum of $23,000, being an unexpended balance of $13,500 of the

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[1] James R. Mann, of Illinois, Chairman.

[2] Third session Sixty-third Congress Record, p. 2750.

[3] James Hay, of Virginia, Chairman.

appropriation for the current fiscal year for street letter boxes, posts, and pedestals, and an unexpended balance of $9,500 of the appropriation for the current fiscal year for package boxes."

On February 14, 1907, when the naval appropriation bill was under consideration in Committee of the Whole, this proviso was read:

"And provided further, That the unexpended balances under appropriations 'Provisions, Navy, for the fiscal years ending June 30, 1905 and 1906,' are hereby reappropriated for 'Provisions, Navy, for fiscal year ending June 30, 1908.'"

It was held that that was in order; but in this case the reappropriations asked for do not point out from what appropriations this reappropriation is asked, nor the specific amounts; nor does it appear that this appropriation is for a similar object. Therefore, the Chair, differentiating these decisions which hold that a reappropriation is in order, is constrained to arrive at the conclusion that when the reappropriation is asked for it must specify from what appropriation, heretofore made, the reappropriation is asked, and the specific amounts to be reappropriated. The Chair therefore sustains the point of order.

1157. While it is in order to provide for the reappropriation of unexpended balances in an appropriation bill, sums previously appropriated for a specific purpose may not be reappropriated for a purpose unauthorized by law.

On January 31, 1920,[1] the second deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Joseph W. Byrns, of Tennessee, offered as a new paragraph an amendment reappropriating an unexpended balance.

Mr. Thomas L. Blanton having made a point of order, the Chairman,[2] held:

The gentleman from Tennessee offers an amendment, by way of a new section, providing that—"so much of the appropriation of $3,500,000 not necessary for the care and custody of the draft records and for the employment of clerical assistance for the purpose of furnishing to adjutants general of States statements of service of soldiers who served in the war with Germany shall be available for the employment of the clerical assistance necessary for the purpose of furnishing such information from the records of the demobilized army as may be properly furnished to public officials, former soldiers, and other persons entitled to receive it."

It appears from the language of this amendment that an appropriation of three and a half million dollars was heretofore made for a specific purpose and that it is now desired that the Secretary of War may use it for a different purpose.

It seems to the Chair that the entire purpose of the amendment is to authorize the Secretary of War to do something which, without the amendment, he has not authority to do. If such is the effect of the proposed amendment, it is in contravention of the rule. The Chair sustains the point of order.

1158. The reappropriation of unexpended balances for purposes authorized by law is in order even though for different purposes than those for which originally appropriated.

On December 14, 1921,[3] Mr. Martin B. Madden, of Illinois, called up the conference report on the first deficiency appropriation bill.

The report having been read, Mr. Nicholas J. Sinnott, of Oregon, said:

Mr. Speaker, I desire to make a point of order against the conference report in that the conferees have exceeded their authority in agreeing to the Senate amendment No. 34 and for further

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[1] Second session Sixty-Sixth Congress, Record, p. 2313.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] Second session Sixty-seventh Congress, Record, p. 372.

reason that this is a deficiency bill and they have no right to agree to such an amendment and it is new legislation.

After debate, the Speaker [1] ruled:

The question that arises is whether a reappropriation of a fund which is not specifically, appropriated to this purpose, and therefore is appropriated to another purpose, is legislation.

The Chair assumes that this claim has been adjudicated or adjusted and only needs an appropriation. Indeed, the Chair is informed that a warrant was actually drawn for it by the Secretary of War which the comptroller refused to pass because the appropriation had not been made.

Now, it does not seem to the Chair that it is legislation to make a reappropriation of funds to a purpose which was not embraced in the original appropriation. It seems to the Chair the Appropriations Committee has the right to appropriate from a fund different from the one from which normally the payment would be made, and therefore this amendment is not subject to the point of order.

There are several decisions in the print which are contradictory. There are decisions both ways. The Chair thinks inasmuch as the Committee on Appropriations has the right to appropriate if there was no fund at all, that it is not legislation to reappropriate from a fund which has been originally allotted for another purpose, and therefore the Chair overrules the point of order.

1159. On February 26, 1923,[2] the third deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union when the Clerk read a paragraph reappropriating, for the alteration of buildings and purchase of land, a portion of an unexpended balance from the appropriation for participation in an exposition at Rio de Janeiro, Brazil, as follows:

The appropriation of $1,000,000 authorized by Joint Resolution No. 25, approved November 2, 1921, for the expenses of taking part in an international exposition to be held at Rio de Janeiro, Brazil, which was made by the first deficiency act, fiscal year 1922, approved December 15, 1921, is hereby made available for the fiscal year 1924, and the Secretary of State may expend not to exceed $15,000 of the balance of the appropriation, not required for the expenses of participation in the exposition, for the alteration, adaptation, and furnishing of the exposition building and improvement of the grounds thereof for permanent use as residence and offices of the diplomatic representative of the United States to Brazil; and not to exceed $30,000 for the purchase of additional land adjoining the site now owned by the United States upon which the exposition building is situated.

A point of order against the paragraph made by Mr. William H. Stafford, of Wisconsin, was overruled by the Chairman: [3]

The joint resolution (S. J. Res. 114), signed November 2, 1921, accepting the invitation of the Republic of Brazil to take part in an international exposition to be held at Rio de Janeiro in 1922, in section 3, contains this language:

"SEC. 3. That officers and employees of the executive departments and other branches and institutions of the Government in charge of or responsible for the safe-keeping of objects, articles, etc., property of the United States, which it is desired to exhibit, may permit such property to pass out of their possession for the purpose of being transported to and from and exhibited at said exposition as may be requested by the commissioner general, such exhibits and articles to be returned to the respective departments and institutions to which they belong at the close of the exposition: *Provided,* That the commissioner general, with the approval of the President,

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Fourth session Sixty-seventh Congress, Record, p. 4701.

[3] Clifton N. McArthur, of Oregon, Chairman.

at the close of the exposition may make such disposition of the buildings and other property of the United States used at the exposition, which it will not be feasible to return to the United States, as he may deem advisable."

This provision here also contains the authority for the purchase of contiguous land. The Chair is of the opinion that it is clearly authorized by law and therefore overrules the point of order.

1160. While the reappropriation of unexpended balances may be made on an appropriation bill, the establishment of a revolving fund from such balances is not a mere reappropriation and is not in order.

On February 16, 1922,[1] the Department of the Interior appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Louis C. Cramton, of Michigan, proposed an amendment as follows:

During the fiscal year 1923 there shall be covered into the appropriation established from time to time under the act entitled "An act to authorize the President of the United States to locate, construct, and operate railroads in the Territory of Alaska, and for other purposes," approved March 12, 1914, as amended, the proceeds of the sale of material utilized for temporary work and structures in connection with the operations under said act, as well as the sales of all other condemned property which has been purchased or constructed under the provisions thereof, also any moneys refunded in connection with the construction and operations under said act, and a report hereunder shall be made to Congress at the beginning of its next session.

Mr. Thomas L. Blanton, of Texas, made the point of order that the amendment was not authorized by law.

The Chairman[2] ruled:

This amendment, in substance, provides that the proceeds of the sale of certain property sold by virtue of an act of Congress approved March 12, 1914, together with the sales of other condemned property that may have been purchased or constructed under the provisions of that act, together with any moneys refunded in connection with the construction and operation of that act, may be collected in a fund and may be used from time to time for the purposes provided in this section.

It seems to the Chair that this creates a revolving fund. It is not the appropriation of an unexpended balance, which could be done, but it is the creation of a fund which is revolving in its nature. It seems to the Chair that this must be subject to the point of order as legislation in an appropriation bill. The concluding language in the amendment is: "And a report hereunder shall be made to Congress at the beginning of its next session." That is plainly legislation, and as such legislation would invalidate the whole section, the point of order is sustained.

1161. A proposition reappropriating an unexpended balance may be amended by a proposition making a direct appropriation for the same purpose.

On April 19, 1922,[3] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the following paragraph was read:

The Secretary of the Navy may use interchangeably the unexpended balances on the date of the approval of this act under appropriations heretofore made on account of "Increase of the Navy," including any balance then remaining under the appropriation "Increase of the Navy, torpedo boat destroyers," for the prosecution of work on vessels under construction on such

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[1] Second session Sixty-seventh Congress, Record, p. 2684.

[2] William J. Graham, of Illinois, Chairman.

[3] Second session Sixty-seventh Congress, Record, p. 5746.

date, the construction of which may be proceeded with under the terms of the treaty providing for the limitation of naval armament concluded on February 6, 1922, published in Senate Document No. 126 of the present session; for the conversion into aircraft carriers, including their complete equipment of aircraft and aircraft accessories, in accordance with the terms of such treaty, 2 of the battle cruisers the construction of which had been heretofore commenced, when the conversion of such battle cruisers shall have been authorized; for the settlement of contracts on account of vessels already delivered to the Navy Department; for the completion of torpedoes under manufacture on April 8, 1922, not to exceed 400; and for the installation of fire-control instruments on the U. S. S. *Maryland* and on 12 destroyers heretofore constructed, and such balances shall not be available for any other purposes.

Mr. James F. Byrnes, of South Carolina, offered as substitute a paragraph providing a direct appropriation for the same purpose as follows:

For the prosecution of work on vessels under construction on the date of the approval of this act the construction of which may be proceeded with under the terms of the treaty providing for the limitation of naval armament, concluded on February 6, 1922, published in Senate Document No. 126 of the present session; for the conversion into aircraft carriers, including their complete equipment of aircraft and aircraft accessories, in accordance with the terms of such treaty, 2 of the battle cruisers the construction of which had been heretofore commenced, when the conversion of such battle cruisers shall have been authorized; for the settlement of contracts on account of vessels already delivered to the Navy Department; for the completion of torpedoes under manufacture on April 8, 1922, not to exceed 400; and for the installation of fire-control instruments on the U. S. S. *Maryland* and on 12 destroyers heretofore constructed; in all $46,250,000: *Provided,* That any unexpended balances on June 30, 1922, under appropriations heretofore made on account of "Increase of the Navy," including and balance then remaining under the appropriation "increase of the Navy, torpedo boat destroyers," shall be covered into the Treasury.

Mr. Thomas S. Butler, of Pennsylvania, having submitted a point of order on the amendment, the Chairman [1] ruled:

The Chair does not think it is subject to a point of order. The only change between the amendment and the original provision of the bill lies in the fact that the original provision of the bill makes the appropriation of an indefinite unexpended balance in the Treasury, and the amendment makes the appropriation specific in amount. The Chair thinks that the objection is not well taken, and overrules the point of order.

1162. Reappropriation of sums required by law to be covered into the Treasury is in order on an appropriation bill.

Appropriations for claims arising out of the operation of the merchant marine during the war were held to be authorized by the merchant marine act of 1920.

While an amendment offered as a new paragraph must be germane to that portion of the bill to which offered, it is not required to be germane to the preceding paragraph.

On February 4, 1925 [2] the independent offices appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the paragraph providing for expenses of the United States Shipping Board Emergency Fleet Corporation was read.

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[1] Horace M. Towner, of Iowa, Chairman.

[2] Second session Sixty-eighth Congress, Record, p. 3022.

Mr. William R. Wood, of Indiana, proposed this amendment:

That portion of the special claims appropriation contained in the independent offices appropriation act for the fiscal year 1923, committed prior to July 1, 1923, and remaining unexpended on June 30, 1925, shall continue available until June 30, 1926, for the same purposes and under the same conditions.

Mr. Thomas L. Blanton, of Texas, made the point of order that the amendment proposed an expenditure unauthorized by law and was not germane to the preceding paragraph.

The Chairman [1] held:

As to the place in the bill to which the new paragraph is offered, it seems to the Chair that this is a proper place to offer this new section. If it is germane to the bill at all, it seems to the Chair that it is germane here, and it is clearly germane to the bill. Being offered as a new paragraph, it is clear to the Chair that it is proper it should be offered here. While a new paragraph is considered in connection with the preceding paragraph for purposes of debate, it does not seem to the Chair that the rule should be carried to the extent of requiring that a new paragraph must be germane to the preceding paragraph. If that were insisted upon, it might be that a paragraph perfectly germane to the purposes of the bill might not be germane to any particular paragraph of the bill. The Chair overrules this point of order.

As to the other point of order, a number of precedents of the House are to the effect that a reappropriation of a sum that is already appropriated for a purpose authorized by law is not subject to a point of order in an appropriation bill; and a reappropriation of a sum required by law to be covered in to the Treasury has been held not to be a change of law. The question then resolves itself into whether the original purpose for which this appropriation was made is authorized by law. Turning to subsection C, on page 987 of the Statutes at Large, Sixty-sixth Congress, the merchant marine act, the Chair reads the following:

"As soon as practicable after the passage of this act the board shall adjust, settle, and liquidate all matters arising out of or incident to the exercise by or through the President of any of the powers or duties conferred or imposed upon the President by any such act or parts of acts; and for this purpose the board, instead of the President, shall have and exercise any of such powers and duties relating to the determination and payment of just compensation: *Provided,* That any person dissatisfied with any decision of the board shall have the same right to sue the United States as he would have had if the decision had been made by the President of the United States under the acts hereby repealed."

It seems to the Chair that the broad power here conferred for the adjustment and settlement of claims is a sufficient authorization for the original appropriation, and the original appropriation having been authorized, the amendment proposing to reappropriate it is not obnoxious to the rule, and therefore the Chair overrules the point of order.

1163. While the organic law establishing a department permits additions to the regular force of employees by classes, the addition of specified employees is not authorized.

On January 30, 1919,[2] the agricultural appropriation bill was under consideration in the Committeee of the Whole House on the state of the Union, when the Clerk read as follows:

OFFICE OF THE SECRETARY

Salaries, Office of the Secretary of Agriculture: Secretary of Agriculture, $12,000; two Assistant Secretaries of Agriculture, at $5,000 each; solicitor, $5,000; chief clerk, $3,000, and $500 additional as custodian of buildings.

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] Third session Sixty-fifth Congress, Record, p. 2369.

Mr. William H. Stafford, of Wisconsin, made the point of order that there was no law authorizing an appropriation for two Assistant Secretaries of Agriculture.

After debate, the Chairman [1] ruled:

The organic act undoubtedly gives the Secretary of Agriculture authority to increase any given number of employees in the different places provided for by law, but that does not apply to administrative positions such as an assistant secretary to the department. For instance, the Chair thinks that the position of First Assistant Secretary is one position, and that of Second Assistant Secretary is a different position, and the Third Assistant Secretary is still a different position, and so on. The Chair does not think that the organic act gave the Secretary of Agriculture authority to increase the number of assistant secretaries, and you can not appropriate for such a position against a point of order unless Congress had authorized or created the particular position. The Chair therefore sustains the point of order.

1164. The organic law establishing the Department of Agriculture authorizes appropriation for necessary employees, and increases may be made in clerks by classes, or of clerks unclassified or by the transfer of clerks from those paid from lump sum appropriations to the statutory roll.

The term "additional places" as used in the organic act creating the Department of Agriculture authorizes the creation of new positions and appropriations for salaries of additional clerks to fill them.

On May 27, 1919,[2] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When the paragraph providing salaries for personnel in the office of the Secretary of Agriculture was reached Mr. Joseph Walsh, of Massachusetts, made the point of order that there was no authority for the increase in clerks of class 1 provided in the paragraph.

After debate, the Chairman [3] held:

The Chair is inclined to believe that if there is any time when increases of positions shall be made under the statute that time is when an appropriation bill is under consideration, and the Chair overrules the point of order. The Clerk will read.

Whereupon Mr. Walsh made a point of order on the appropriation of salaries for a mechanical assistant and an instrument maker, provided in the same paragraph on the ground that they were new positions and unauthorized by law.

The Chairman held:

The Chair believes that the law organizing the Agricultural Department is sufficiently comprehensive to authorize the employment of additional persons by the department from time to time, as the department develops. Therefore the Chair overrules the point of order.

1165. An appropriation for distribution of seeds was held to be in order in an appropriation bill.

The reenactment from year to year of a law intended to apply during the year of its enactment is not to be construed as authorizing appropriations for subsequent years.

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[1] Courtney W. Hamlin, of Missouri, Chairman.

[2] First session Sixty-sixth Congress, Record, p. 294.

[3] Martin B. Madden, of Illinois, Chairman.

On January 24, 1921,[1] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. John W. Langley, of Kentucky, offered an amendment providing an appropriation for the purchase and distribution of valuable seeds, and embodying legislation.

Mr. Thomas L. Blanton, of Texas, raised the question of order under section 2 of Rule XXI.

After debate, the Chairman[2] ruled:

The Chair is aware that the seed-distribution proposition has been a bone of contention in Congress for a number of years, and the present occupant of the chair approaches the subject with some trepidation. The ruling which the Chair is going to make is in direct opposition to the real opinion of the Chairman himself, but he founds it entirely on the precedent that was established by this committee a number of years ago when they by a decisive vote overruled the Chairman and held in order this proposition.

In view of the fact that the Chair is ruling contrary to his own views, he asks the indulgence of the committee to take up briefly a few of the points that have been advanced on both sides of the argument.

There are certain portions of the amendment which the Chair thinks are in order, for they are authorized by statute law creating the Department of Agriculture and other laws pertaining to this department; but other portions, it seems to the Chair, are not so authorized, and this taint of irregularity in one part would taint the whole and would make the amendment subject to the point of order, and so the Chair would rule were it not for the precedent already referred to.

The Chair desires to take up another argument, to the effect that the repetition of legislation on an appropriation bill gave that legislation the standing of statute law; that custom created an authorization. While it is true that this proposition has been carried in previous appropriation bills, the Chair does not feel that that fact relieves it of objection.

In the opinion of the Chair, legislation in a legislative act is an authorization, which will operate until repealed, unless a limit has been stated.

As an appropriation bill provides only for supplies during the year for which it is enacted, it would seem to the Chair that any legislation carried thereon, unless expressly provided otherwise, would cease to be operative when the life of the appropriation bill terminated. Therefore the mere enactment, year after year, of legislation on an appropriation bill, in the judgment of the Chair, does not make it permanent law.

With this statement and basing his decision solely on the ruling made by the committee some years ago, which is higher authority than any ruling or any opinion made by the Chair, the Chair will overrule the point of order.

1166. The law establishing the Department of Agriculture was held to authorize an appropriation for the purchase and distribution of free seeds.

On April 24, 1924,[3] the agricultural appropriation bill had been read a third time and the question was pending on its passage, when Mr. James B. Aswell, of Louisiana, offered the following motion:

Mr. Aswell moves to recommit the bill to the Committee on Appropriations with instructions to report the same back to the House forthwith with the following amendment: Page 28, line 19, at the end of line 19 insert: "Purchase and distribution of vegetable, field, and flower seeds, plants, shrubs and vines, bulbs, and cuttings of the freshest and best obtainable varieties, adapted to general cultivation, $360,000, or so much thereof as may be necessary."

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[1] Third session Sixty-sixth Congress, Record, p. 1983.

[2] Frederick C. Hicks, of New York, Chairman.

[3] First session Sixty-eighth Congress, Record, p. 7105.

Mr. Martin B. Madden, of Illinois, made the point of order that the motion proposed an expenditure for which there was no authorization of law.

In debating the question of order Mr. Tom Connally, of Texas, said:

I will read from the United States Compiled Statutes, 1901, section 520:

"That there shall be at the seat of government a Department of Agriculture, the general design and duties of which shall be to acquire and diffuse among the people of the United States useful information on subjects connected with agriculture in the most general and comprehensive sense of that word, and to procure, propagate, and distribute among the people new and valuable seeds and plants."

I now call attention to section 527 as amended in 1896. These are the compiled statutes. The Revised Statutes of 1878 were amended in 1896, and it reads as follows:

"PURCHASE AND DISTRIBUTION OF SEEDS, PLANTS, ETC.

"That purchase and distribution of vegetable, field and flower seeds, plants, shrubs, vines, bulbs, and cuttings shall be of the freshest and best obtainable varieties and adapted to general cultivation."

The Speaker [1] held:

The Chair thinks that to a paragraph providing for the purchase, propagation, and distribution of new and rare seeds this motion to recommit with an amendment for the purchase of seeds is germane. The Chair at first was disposed to think that it did not come within the terms of the organic act, but this provision of the law which the gentleman from Texas has cited seems absolutely conclusive that the gentleman from Louisiana has used the very language of the statute The Chair overrules the point of order.

1167. An appropriation for "miscellaneous supplies and expenses" was held to be authorized by the organic law of the Department of Agriculture.

On January 25, 1921,[2] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The paragraph providing for miscellaneous expenses of the Department of Agriculture having been read, Mr. Thomas L. Blanton, of Texas, submitted a point of order against the provision "and for other miscellaneous supplies and expenses not otherwise provided for."

The Chairman [3] said:

The Chair feels that in the organic law creating the Department of Agriculture it is manifest that the intention was to carry forward a work of this kind, and the Chair will base his ruling on a ruling of January 6, 1921, made by Chairman Walsh, a pretty strict interpretator of the rule, in which he says, where a proviso includes the words "and for other needed work and improvement" is in order. The Chair, fortifying his own opinion by the citation referred to, overrules the point of order.

1168. An appropriation for maintenance in cooperation with the War Department of an air patrol for fire prevention in national forests was held to be authorized by law.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Third session Sixty-sixth Congress, Record, p. 2037.

[3] Frederick C. Hicks, of New York, Chairman.

On January 24, 1921,[1] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

For fighting and preventing forest fires, $250,000, or so much thereof as may be necessary; and to enable the Secretary of Agriculture to cooperate with the War Department in the maintenance of an air patrol for fire prevention and suppression on the national forests of the Pacific coast and the Rocky Mountain regions, $50,000: *Provided,* That no part of this appropriation shall be used for the purchase of land or airplanes or for the construction of permanent buildings; in all, $300,000.

Mr. Gilbert N. Haugen, of Iowa, made the point of order that the amendment was without authorization.

The Chairman[2] said:

The Chair feels that the organic law dealing with the Department of Agriculture is an extremely broad one and that the provisions are very comprehensive. The Chair will read the act of June 4, 1897:

"The Secretary of Agriculture shall make provisions for the protection against destruction by fire and depredations upon the public forests and forest reservations. * * * And he may make such rules and regulations and establish such service as Will insure the objects of such reservations, namely, to regulate their occupancy and use and to preserve the forests thereon from destruction."

The Chair feels that in the matter of fire prevention every means should be taken by the Department of Agriculture to prevent fire, and that it was the intention of the organic law cited above to take every precaution in this respect in our national forest reserves. Surely there can be no higher prerogative of government than to protect itself and its property. The Chair feels that these provisions of the law are sufficiently broad to authorize the establishment of a fire patrol as indicated in this bill; therefore the Chair overrules the point of order.

1169. An appropriation for the purchase of lands authorized upon contingency was held to be in order prior to development of such contingency upon the ground that it was a condition precedent to the purchase and not to the appropriation.

On January 26, 1921,[3] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. Sydney Anderson, of Minnesota, offered this amendment:

Acquisition of additional forest lands: There is hereby appropriated out of any money in the Treasury not otherwise appropriated, to be expended under the provisions of the act of March 1, 1911 (36 Stat. L., 961), as amended, for the acquisition of additional lands at headwaters of navigable streams, $1,000,000.

Mr. Thomas L. Blanton, of Texas, presented a point of order contending that the act of March 1, 1911, relied upon as authority for the purchase, had expired, and even if in force, required the approval of such purchase by the National Forest Reservation Commission which had not been given.

The Chairman[2] ruled:

The Chair will say to the gentleman that the money will not be used for three or four months, and in that time the report will be in, and the purchase will be approved.

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[1] Third session Sixty-sixth Congress. Record. p. 1987.

[2] Frederick C. Hicks, of New York, Chairman.

[3] Third session Sixty-sixth Congress, Record, p. 2092.

Section 7 seems to the Chair to be very clear. The Chair admits that the language is exceedingly broad, so broad that you could buy land almost without limit, the only limit being that it shall be on nonnavigable waters, and that it shall have the approval of this Forest Commission. But nevertheless the law says in section 7:

"That the Secretary of Agriculture is hereby authorized to purchase in the name of the United States such lands as have been approved for purchase by the National Forest Reservation Commission at the price or prices fixed by said commission."

And so forth.

Now, it seems to the Chair that whatever we may think of that authorization, it is the authorization of existing law; and as the Chair views it in that way, the Chair overrules the point of order.

1170. An appropriation for fire protection of forested watersheds of navigable streams, in cooperation with a State, was held to be authorized by existing law.

On March 11, 1922,[1] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. James R. Mann, of Illinois, raised a question of order against this paragraph:

For cooperation with any State or group of States in the protection from fire of the forested watersheds of navigable streams under the provisions of section 2 of the act of March 1, 1911, entitled "An act to enable any State to cooperate with any other State or States, or with the United States, for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers," $400,000.

After debate, the Chairman[2] decided that the appropriation was authorized by the act of March 1, 1911, and overruled the point of order.

1171. The authorization carried by an act providing an appropriation for the purchase of forest land was held not to have been terminated by the expiration of the original appropriation.

In construing an act the intent of the Congress at the time of its enactment is not taken into consideration when in conflict with the express provisions of the law.

On March 13,1922,[3] the Agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A point of order was pending against this paragraph:

For the acquisition of additional lands at headwaters of navigable streams, to be expended under the provisions of the act of March 1, 1911 (36 Stat. L., p. 961), as amended, $50,000.

After debate, the Chairman[2] said:

The point of order is that this is an appropriation not authorized by law, and so the question narrows down as to whether the original Weeks Act, so far as authorization for the acquisition of these lands is concerned, is operative or whether that authority terminated June 30, 1915.

The Chair lacks the benefit of having any personal knowledge of the history surrounding the enactment of the original law, and is devoid of the means of ascertaining the intention of Congress in relation thereto. The Chair while realizing that "intention" is entitled to consideration, yet doubts if it can be balanced against the expressed provisions of the law. I will refrain

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[1] Second session Sixty-seventh Congress, Record, p. 3770.

[2] Frederick C. Hicks, of New York, Chairman.

[3] Second session Sixty-seventh Congress, Record, p. 3805.

from rereading the sections of the Weeks Act, which seems to carry the crux of the matter, except to state that it is section 3, dealing with appropriations, that contains the limitation proviso. It states, "*Provided,* That the provisions of this section shall expire by limitation on the 30th day of June, 1915."

What puzzles the Chair is the location in the act of this limitation provision, and also its specific reference to "this section." Is it not fair to assume that it is the provisions of section 3 that are limited and not the provisions of the act? Is it not reasonable to suppose that if it was the intention to terminate the authorization on June 30, 1915, as well as the appropriations,, the limitation would have come after section 7 and would have referred to the act and not to a section that did not deal with authorization? The Chair answers both questions in the affirmative, and feels that however much the intention of Congress may be stressed as to limitation the statute does not so express it. The Chair, feeling that the authority has not been terminated by the proviso of section 3, must hold that the item in this bill is in order. The Chair therefore overrules the point of order.

1172. An appropriation for cooperative agricultural extension work with the States and Territories is authorized by the organic law creating the Department of Agriculture.

Prohibition of expenditures "until" designated affirmative action is taken constitutes legislation and is not in order as a limitation.

Provision that an appropriation should not be available until the States and Territories contributed equal sums was ruled out of order on an appropriation bill.

If any part of a paragraph is out of order the entire paragraph is subject to a point of order.

On January 22, 1932,[1] the Department of Agriculture appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the following paragraph was reached:

For additional cooperative agricultural extension work, including employment of specialists in economics and marketing, to be allotted and paid by the Secretary of Agriculture to the several States and the Territory of Hawaii in such amounts as he may deem necessary to accomplish such purposes, $1,000,000: *Provided,* That no expenditures shall be made hereunder until a sum or sums at least equal to such expenditures shall have been appropriated, subscribed, or contributed by State, county, or local authorities or by individuals or organizations for the accomplishment of such purpose.

Mr. William H. Stafford, of Wisconsin, submitted a point of order.

The Chairman[2] held that the proviso was legislation and, being out of order, would render the entire paragraph subject to the point of order.

Whereupon, Mr. James P. Buchanan, of Texas, offered the same paragraph, without the proviso, as an amendment.

Mr. Stafford again objected and made the point of order that the appropriation was not authorized by law.

The Chairman overruled the point of order and said:

The Chair will cite section 511, Title V, United States Code, which seems to be very broad and comprehensive, and within the purview of which the Chair is of the opinion that the committee has authority to report this section.

The Chair overrules the point of order.

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[1] First session, Seventy-second Congress, Record, p. 2553.

[2] William B. Bankhead, of Alabama, Chairman.

1173. On December 28, 1932,[1] during the consideration of the Department of Agriculture appropriation bill in the Committee of the Whole House on the state of the Union, a paragraph was read including the following language:

And all sums appropriated by this act for use for demonstration or extension work within any State shall be used and expended in accordance with plans mutually agreed upon by the Secretary of Agriculture and the proper officials of the college in such State which receives the benefits of said act of May 8, 1914.

Mr. John Taber, of New York, made the point of order that there was no authority of law for the provision.

The Chairman[2] overruled the point of order, basing his decision on the authorization contained in section 341 of Title 7 of the United States Code.

1174. An appropriation for the distribution of proceedings of the World's Dairy Congress was held to be authorized by the provision for the dissemination of knowledge in the law creating the Department of Agriculture.

On December 21, 1922,[3] the Agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Gilbert N. Haugen, of Iowa, proposed this amendment:

There is hereby appropriated the sum of $30,000, or so much thereof as may be necessary, for paying for the interpretation, translation, and transcription of discussions, and the printing, binding, and distribution of the proceedings of the World's Dairy Congress, including the payment of postage to foreign countries and the employment of such persons and means. in the city of Washington and elsewhere as may be necessary to accomplish these purposes.

Mr. Thomas L. Blanton, of Texas, made the point of order that there was no authority of law for the expenditure.

The Chairman[4] held:

The Chair realizes, as has already been stated by the Chair, that the organic law creating this department, particularly with reference to the dissemination of useful information, is extremely broad. The Chair feels that this is information useful to the people of the United States, and as there is a law providing for the dissemination of this knowledge the Chair feels that the amendment is in order. The Chair quotes from Barnes Federal Code as follows:

"(618. Establishment of department.)

"There shall be at the seat of government a Department of Agriculture the general design and duties of which shall be to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture in the most general and comprehensive sense of that word."

The Chair overrules the point of order.

1175. An appropriation for feeding elk in national parks was held to be authorized by law and to constitute a deficiency and to be in order on an appropriation bill.

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[1] Second session, Seventy-second Congress, Record, p. 1026.

[2] Andrew J. Montague, of Virginia, Chairman.

[3] Fourth session Sixty-seventh Congress, Record, p. 836.

[4] Frederick C. Hicks, of New York, Chairman.

On February 2, 1920,[1] the deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the following paragraph was read:

Yellowstone National Park, Wyo.: For reimbursement of the appropriation for the park for the fiscal year 1920 on account of expenditures for fighting forest fires in the park and purchasing hay for feeding of elk, $35,026.64.

Mr. Thomas L. Blanton, of Texas, having reserved a point of order on the paragraph, the Chairman[2] said:

It appears that these parks have been authorized by law and set apart for the preservation of certain animals and game in general and that these are being protected by law. The Secretary of the Interior is authorized and empowered to take such measures as may be necessary to protect the animals, fish, and game in the park. It seems to the Chair that the proposed appropriation is clearly authorized by law. As to the question whether or not it is a deficiency, it seems to the Chair that there can be little doubt. The Chair overrules the point of order.

1176. The term "existing law" as related to authorization of deficiency appropriations includes not only permanent statutes but also provisions of supply bills in force for the current year only.

An appropriation to indemnify owners of animals destroyed by direction of the department in the eradication of tuberculosis was held to be a deficiency and in order on an appropriation bill.

On May 24, 1921,[3] the deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

General expenses, Bureau of Animal Industry: To enable the Bureau of Animal Industry, Department of Agriculture, to perform the duties imposed upon it by the Agricultural appropriation act approved May 31, 1920, for the payment of indemnities on account of cattle to be slaughtered during the remainder of the current fiscal year, in connection with the eradication of tuberculosis from animals, $405,000.

Mr. Thomas L. Blanton, of Texas, made the point of order that the paragraph was not authorized by law.

The Chairman[4] held:

The appropriation act for the fiscal year 1921 carried this authority:

"That in carrying out the purposes of this appropriation if, in the opinion of the Secretary of Agriculture, it shall be necessary to destroy tuberculous animals and to compensate owners for loss thereof, he may, in his discretion, and in accordance with such rules and regulations as he may prescribe, expend, in the city of Washington or elsewhere, out of the moneys of this appropriation such sums as he shall determine to be necessary, within the limitations above provided, for the reimbursement of owners of animals so destroyed, in cooperation with such States, Territories, counties, or municipalities as shall by law or by suitable action in keeping with its authority in the matter, and by rules and regulations adopted and enforced in pursuance thereof, provide inspection of tuberculous animals and for compensation to owners of animals so destroyed."

This law is authority for such liabilities as are to be compensated for in this appropriation. Therefore the Chair overrules the point of order.

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[1] Second session Sixty-sixth Congress, Record, p. 2373.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] First session, Sixty-seventh Congress, Record, p. 1701.

[4] Philip P. Campbell, of Kansas, Chairman.

1177. An appropriation for the maintenance of motor cycles belonging to the Government was held to be authorized by law.

On January 28, 1911,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read as follows:

For the purchase and maintenance of a package motor cycle.

Mr. William E. Cox, of Indiana, raised the question of order that there was no authorization for the expenditure.

The Chairman[2] having sustained the point of order, Mr. Washington Gardner, of Michigan, offered this amendment:

And for the maintenance of a package motor cycle.

Mr. Cox also made the point of order on this amendment, and the Chairman held:

In the current appropriation act there appears the language "and for the purchase and maintenance of a package motor cycle." The Chair has no way of determining whether this law has been complied with, or what has been done under this law, and does not understand that it is necessary for him to go into that question. The appropriation was made, and the authorization granted by Congress for the purchase of a package motor cycle. This amendment seeks to make an appropriation for the maintenance of the motor cycle. Upon the law as it stands, the Chair will be compelled to assume that that law has been complied with, that a motor cycle had been purchased, and that this appropriation is for the maintenance of that motor cycle.

1178. An appropriation for an automobile, however necessary to the efficient and economical performance of authorized official duties is not in order on an appropriation bill unless specifically authorized by law.[3]

On January 28, 1911,[4] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. William E. Cox, of Indiana, made a point of order that there was no authorization of law for the purchase of one motor runabout as provided in the following paragraph:

For continuing the extension of and maintaining the high-service system of water distribution, laying necessary service and trunk mains for low service, and purchasing, installing, and maintaining water meters on services to such private residences and to such business place, as may not be required to install meters under existing regulations as may be directed by the Commissioners of the District of Columbia, said meters at all times to remain the property of the District of Columbia, to include all necessary land, machinery, buildings, mains, and appurtenances, and labor, and the purchase and maintenance of horses, wagons, carts, and harness necessary for the proper execution of this work, and for the purchase and maintenance of one motor runabout to be used for purposes of inspection, at a cost of not to exceed $1,800, so much as may be available in the water fund during the fiscal year 1912, after providing for the expenditures hereinbefore authorized, is hereby appropriated.

After debate, the Chairman[2] said:

The Chair is very much in sympathy with what the gentleman from Minnesota, Mr. Tawney, has said as to the most economical way for inspectors and others to travel in the proper execution

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[1] Third session Sixty-first Congress, Record, p. 1605.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] See, however, sections 8232, 8233 of this work.

[4] Third session Sixty-first Congress, Record, p. 1615.

of their work. The present occupant of the chair believes that much time and money could be saved to the Government by a more general use of motor vehicles in its service, and is not seriously disturbed by the occasional abuse in their use by persons in official station. Speaking frankly, the present occupant of the chair, without the guidance of precedent, would be inclined to hold it to be in order to appropriate in a general appropriation bill for the purchase and maintenance of such vehicles when their use was clearly within the scope of the provisions of the bill. However, in the determination of the present point of order, the Chair is and should be governed by precedents, and the precedents appear to be the other way. Furthermore, if, as is contended, it is a matter that should be left entirely to the discretion of executive officials, it would seem unnecessary that this provision should be placed in an appropriation bill, specifying that so much may be expended for the purchase and maintenance of an automobile. In other words, if it were purely a matter of discretion of the officer there would be no necessity for him to come here at all for authority, but a lump sum might be appropriated and used by him for the purchase and maintenance of an automobile for proper uses. So far as the Chair is able to ascertain, there seems to be no specific authorization for the purchase and maintenance of an automobile for this purpose, and no such authorization having been brought to the attention of the Chair, the point of order is sustained.

1179. An appropriation to restrict free kindergarten supplies to indigent children was held to be out of order on an appropriation bill.

It is incumbent upon the proponent of an amendment to cite authority of law when that point is raised.

On January 28, 1911,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read:

Kindergarten supplies: For kindergarten supplies, $2,800.

Mr. Ben Johnson, of Kentucky, offered an amendment restricting the distribution of such supplies to indigent children.

Mr. James R. Mann, of Illinois, having made a point of order on the amendment, the Chairman[2] requested Mr. Johnson to cite authority of law.

Mr. Johnson being unable to comply with the request, the Chairman said:

The Chair was about to observe that it is incumbent on the gentleman from Kentucky, who moved the amendment, to show the Chair the law upon which his amendment may be founded. It is not necessary for the gentleman from Illinois to produce law to the contrary. If there is no such law the amendment of the gentleman will be out of order.

1180. Authorization for the erection of a memorial without expense to the United States was construed not to authorize an appropriation for maintenance of the memorial when erected.

On January 4, 1921,[3] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read:

For operation, care, repair, and maintenance of the electric pump which operates the memorial fountain to Admiral Dupont in Dupont Circle, $2,500.

Mr. James R. Mann, of Illinois, raised the question as to whether there was authorization of law for the expenditure.

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[1] Third session Sixty-first Congress, Record, p. 1595.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] Third session Sixty-sixth Congress, Record, p. 964.

The Chairman [1] said:

The gentleman from Illinois makes the point of order upon the paragraph for "the operation, care, repair, and maintenance of the electric pump to operate the memorial fountain to Admiral Dupont in Dupont Circle, $2,500." The act confers authority upon the Chief of Engineers to grant permission for the removal of the statue and pedestal and foundation of the statue of Admiral Dupont at Dupont Circle, and to also grant permission for the erection in place thereof of a memorial to said Admiral Dupont. It also provides that the present statue and pedestal may be turned over to the donors of the memorial for relocation outside of the District of Columbia. But the act further provides that the site and design of the memorial shall be approved by the Commission of Fine Arts. And further, that the United States shall be put to no expense in or by the removal of the statue, pedestal, or foundation, and the erection of said memorial complete.

It is the view of the Chair that it would seem that Congress intended, in granting this permission to remove the statue which formerly was there, and permitting persons to donate a substitute in the form of a memorial, that the Fine Arts Commission should first pass upon the site and the design of the memorial that is the substitute for the statue, and, having approved the site and the design, the further qualifying language of the resolution required that that memorial, whatever it should be, after having received the approval of the Fine Arts Commission, should be placed there without additional expense to the United States; that is, so as not to require any additional expenditure for the maintenance of the park by reason of the removal of the statue and the acceptance of the memorial in its stead. There is still authority to appropriate for the maintenance of this park, but this is a new facility for which the Chair finds no authorization in the resolution cited. That act does not, in the opinion of the Chair, authorize an appropriation for the operation of anything connected with that memorial, such as an electric pump or any other form of apparatus. The change was to be made and the substitute located and erected complete without expense to the United States—this would seem to limit the discretion of both the Chief of Engineers and the Fine Arts Commission. The matter of having selected a fountain, it would seem to the Chair, would not authorize an appropriation by the Congress for the operation of anything connected with it unless further authority be given. And the Chair therefore sustains the point of order.

1181. An appropriation for increased cost in park maintenance was held to be in order on an appropriation bill.

On January 4, 1921,[2] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

To provide for the increased cost in park maintenance, $65,000.

Mr. Warren Gard, of Ohio, raised the question of order that there was no law authorizing the appropriation.

The Chairman [1] said:

The gentleman from Ohio makes the point of order to the language, "to provide for the increase in cost of park maintenance, $65,000," on the ground, among other things, that it is so speculative in character as not to come within the requirements of being authorized by law. There seems to be no limit of cost fixed by any law heretofore passed for the maintenance or existence of any of these parks. This is a general provision covering increased cost in park maintenance, which would be available for any of the parks specifically appropriated for in the bill. There being no limitation to the amount which might be appropriated and expended for the maintenance of the parks, the Chair feels that this is not outside of the requirements, and therefore overrules the point of order.

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[1] Joseph Walsh, of Massachusetts, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 966.

1182. The organic act of the District of Columbia authorizes appropriations for interest on District bonds and a subsequent act authorizes appropriations for sinking fund for their payment.

On January 25, 1912,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A point of order made by Mr. Ben Johnson, of Kentucky, was pending against this paragraph:

For interest and sinking fund on the funded debt, $975,480.

The Chairman[2] ruled:

All the law that has been cited to the Chair and all the Chair has been able to find is contained in the act of 1874, in the act of 1878, and the act of 1879, except a slight amendment which was in the act of 1875 amending the act of 1874. The language applicable to this matter in the act of 1874, as amended by the act of 1875, is as follows:

"And the faith of the United States is hereby pledged that the United States will, by proper proportional appropriations as contemplated by this act, and by causing to be levied upon property within said District such taxes as will do so, provide the revenues necessary to pay the interest on said bonds, as the same may become due and payable and create a sinking fund for the payment of the principal thereof at maturity."

Perhaps it renders this statute easier of construction if the arrangement be changed in reading and we omit that part after the first comma down to the third comma, and read it, "and the faith of the United States is hereby pledged that the United States will provide the revenues necessary to pay the interest on said bonds as the same may become due and payable and create a sinking fund for the payment of the principal thereof at maturity." How? Going back, first, "by proper proportional appropriations as contemplated in this act," and, second, "by causing to be levied upon property within said District such taxes as will do so." The Chair can not escape the conclusion that the expression "by proper proportional appropriations as contemplated in this act" means something, and the Chair thinks that what it does mean is made clear by a subsequent section of the act of 1874, which appointed a joint committee to draft an act for the government of the District of Columbia in pursuance of the policy which had been defined by the passage of the act of 1874. And it is clear from all that occurred in that act of 1874 that it was then in contemplation, not only by the committee that reported the act of 1874 but in the contemplation of the Congress, because Congress passed the act, that there should be proportional appropriations, that a certain part of the expenses of the District of Columbia should be paid out of the funds of the Government of the United States and another part should be paid out of the revenues raised in the District.

Consequently the Chair regards that section of the act of 1874, as amended by the act of 1875, as being very persuasive and having a very potent meaning.

We come next to the act of June 11, 1877, the so-called "organic act" of the District of Columbia. That provides:

"Hereafter the Secretary of the Treasury shall pay the interest on the 3.65 bonds of the District of Columbia, issued in pursuance of the act of Congress approved June 20, 1874, when the same shall become due and payable, and all amounts so paid shall be credited as a part of the appropriation for the year by the United States toward the expenses of the District of Columbia, as hereinbefore provided."

It seems to the Chair that is clear authority for the payment of the interest, and the Chair suggests that the expression in regard to the method of crediting may be explainable when we consider the time at which the act of 1878 passed it was a general provision of law. It was not in an appropriation bill. It was a direction to the Secretary of the Treasury to pay it, and the Chair

[1] Second session Sixty-second Congress, Record, p. 1310.

[2] Finis J. Garrett, of Tennessee, Chairman.

thinks that the direction as to the crediting may have been put in by reason of the time at which the act was passed.

With the matter of bookkeeping, upon the proposition of whether or not the Government is bound for half the interest under the terms of this act, the Chair does not deem it necessary for him to pass. The sole question before the Chair being, Is there authority of law to appropriate? And if that authority exists, then of course the appropriation must be administered under the law. And the responsibility rests not upon the legislative branch or upon the Chair in passing upon the point of order but upon the administrative officers. The Chair thinks there is authority of law for appropriating for the interest in the manner appropriated in this bill, and that brings us to the act of 1879, contained in the sundry civil bill, as follows:

"And there is hereby appropriated, out of the proportional sum which the United States may contribute toward the expenses of the District of Columbia in pursuance of the act of Congress approved June 11, 1878, for the fiscal year ending June 30, 1879, and annually thereafter, such sums as will, with the interest thereon at the rate of 3.65 per cent per annum, be sufficient to pay the principal of the 3.65 bonds of the District of Columbia, issued under the act of Congress approved June 20, 1874, at maturity, which said sums the Secretary of the Treasury shall annually invest in said bonds at not exceeding the par value thereof, and all bonds so redeemed shall cease to bear interest, and shall be canceled and destroyed in the same manner that United States bonds are canceled and destroyed."

That section has given the Chair more difficulty than any of the others. But upon the whole, construing it as best the Chair could, the Chair has concluded that it clearly authorizes Congress to appropriate for the sinking fund. And the same thing, however, as to the administration of that appropriation after it is made applies to this section as applies to the interest act to which the Chair has just made reference. Believing that there is found in the law as quoted the authority to make the appropriation, the Chair overrules the point of order.

1183. An appropriation for interest and sinking fund on the funded debt of the District of Columbia to be paid jointly from the Federal Treasury and District revenues is authorized by law.

On February 6, 1913,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Ben Johnson, of Kentucky, offered the following amendment:

INTEREST AND SINKING FUND.

And there is hereby appropriated out of the proportional sum which the United States may contribute toward the expenses of the District of Columbia, in pursuance of the act of Congress approved June 11, 1878, for the fiscal year ending June 30, 1879, and annually thereafter, such sums as will, with the interest thereon at the rate of 3.65 per cent per annum, be sufficient to pay the principal of the 3.65 bonds of the District of Columbia issued under the act of Congress approved June 20, 1874, at maturity, which said sums the Secretary of the Treasury shall annually invest in said bonds at not exceeding the par value thereof, and all bonds so redeemed shall cease to bear interest and shall be canceled and destroyed in the same manner that United States bonds are canceled and destroyed. (Vol. 20, p. 410, U.S. Stats.)

Hereafter the Secretary of the Treasury shall pay the interest on the 3.65 bonds of the District of Columbia issued in pursuance of the act of Congress approved June 20, 1874, when the same shall become due and payable; and all amounts so paid shall be credited as a part of the appropriation for the year by United States toward the expenses of the District of Columbia, as hereinbefore provided. (Vol. 20, p. 105, U.S. Stats.)

For the purpose of meeting the payment of interest and for the purpose of providing for said sinking fund the sum of $975,408, or as much thereof as may be necessary, is hereby appropriated (from the respective funds described in the two acts of Congress above set out), to be charged

[1] Third session Sixty-second Congress, Record, p. 2655.

against the revenues of the District of Columbia, derived from taxes levied and assessed upon the taxable property and privileges of the District of Columbia for the fiscal year ending June 30, 1914.

Mr. James R. Mann, of Illinois, made a point of order against the amendment. After debate, the Chairman [1] said:

The Chair is ready to rule. Substantially the same questions for ruling that are presented now were presented on Tuesday when the point of order was made against the interest- and sinking-fund paragraph in the bill. The Chair has indulged gentlemen at length in the argument to-day because the question determined on Tuesday, and to be agained ruled on now, involves not only the exercise by Congress of the taxing power as it affects the District of Columbia, but it involves the exercise of the taxing power as it affects the people of the United States. And further, that if, may be, the Chair had not given sufficient attention and entertained full comprehension of the question on the first ruling, he is now given again an opportunity to correct any error he may have made or to correct any error the committee may have made when it voted the decision of the Chair to be the decision of the committee. Therefore, the Chair now rules somewhat further on the question, although it may be said that if the Chair and the committee were right on the former ruling, of course the point of order must now be overruled. Yet the question is of sufficient importance in view of the arguments presented, that a further and more extended ruling touching the interpretation and meaning of the act of 1878 and the act of 1879 perhaps should be made now.

The amendment as offered by the gentleman from Kentucky against which the point of order is made, consists of three paragraphs in its form, but not of three paragraphs by number. Therefore, for the purpose of orderly treatment and clearness of decision, the Chair will consider the first grammatical paragraph as "paragraph 1," the second grammatical paragraph as "paragraph 2," and the third grammatical paragraph as "paragraph 3." As between the contending opinions there is no doubt or difference on some points involved. A proposition that we all agree upon is that the Government of the United States, by the act of 1878, in some cases contributes a proportional sum to the support of the District of Columbia.

There is no disputing the fact that that proportional sum is 50 per cent, because the language of the statute itself says "50 per cent." In the light of this common ground let us examine the words of paragraph 1:

"And there is hereby appropriated out of the proportional sum which the United States may contribute toward the expenses of the District of Columbia, in pursuance of the act of Congress approved June 11, 1878"—

And so forth.

As stated, the proportional sum is 50 per cent, and there is no dispute on that. Then the act of 1879, if read to conform, would be:

"And there is hereby appropriated out of the 50 percent which the United States may contribute toward the expenses of the District of Columbia"—

And so forth. If that be true, there can be neither duplicity, obscurity, nor ambiguity in the act of 1879 unless there is ambiguity in the plainest terms of the English language.

Consequently the Chair now rules that the act of 1879, by the plain terms of the act, provided and directed that that proportional sum, to wit, 50 per cent, should be ultimately chargeable to and borne by the District of Columbia. If so, is it not a palpable violation of law to otherwise appropriate for it?

So much for the act of 1879. The act of 1878, paragraph 2, reads:

"All amounts so paid shall be credited as part of the appropriation for the year by the United States toward the expenses of the District of Columbia."

And so forth. By the literal language of law, if the Government appropriates anything from the Federal Treasury, it appropriates 50 per cent, and the express language of the act says it shall, when paid, be—

[1] S.A. Roddenberry, of Georgia, Chairman.

"Credited as a part of the appropriation for the year by the United States"—

And so forth. Then if, in fact, the money is paid or advanced from the Treasury it would, under the letter of the act, be credited to the proportional half that the Government may appropriate toward the support of the District of Columbia. If that be true, then the language—

"Hereafter the Secretary of the Treasury shall pay the interest"—

And so forth—"and all amounts so paid shall be credited as a part of the appropriation for the year by the United States toward the expenses of the District of Columbia"—

Is clear.

Then there is no duplicity, there is no obscurity, and there is no abiguity in the language of the act of 1878.

It is not contended that any authorization of appropriation, in any form provided for in this or any past bill, has stood for its foundation on any other law. Members of the committee will observe that the first and second paragraphs of the amendment follow the exact language of the statute. The Chair now comes to rule on the question as to whether paragraph 3 of this amendment is in order. Paragraph 3 reads:

"For the purpose of meeting the payment of interest and for the purpose of providing for said sinking fund the sum of $975,408, or so much thereof as may be necessary, is hereby appropriated"—

From the respective funds described in the two acts of Congress above set forth—"to be charged against the revenues of the District of Columbia derived from taxes"—

And so forth, following the statute.

If the legal construction by the Chair of the first paragraph, being the act of 1879, is correct, and if the legal construction by the Chair of the second paragraph, being the act of 1878, is correct, then the third paragraph, in explicit language, provides that Congress by its annual appropriation shall give force and effect to existing law. The Chair is of the opinion that the ruling made on a former occasion and sustained by a vote of the committee was correct, for the reasons then stated, and for the further reasons, somewhat analytically, we hope, presented at this time to the committee.

This point of order raises, as already observed, a question of law, which the Chair is compelled, in the very nature of things, to reach and announce an opinion upon. After an earnest and careful consideration of the several acts it is the opinion of the Chair that the first two paragraphs of the proposed amendment correctly set out the appropriate law and that the interpretation given is the correct construction of that law. The last paragraph of the amendment, in fulfillment of this law, appropriates the money and directs its payment according to the construction announced. So the point of order lodged against the amendment is overruled.

1184. A law establishing a definite policy was held to authorize appropriations for agents to carry out such policy and instrumentalities promoting the efficiency of those agents.

A system of inspection being provided for by law it was held in order to appropriate for inspectors and motor cycles for their official use.

An appropriation to reimburse officials for services and expenses, however valid, is an appropriation for a private claim and is not in order on an appropriation bill.

On January 30, 1913,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was read:

To reimburse two elevator inspectors for the provision and maintenance by themselves of two motor cycles for use in their official inspection of elevators in the District of Columbia, $10 per month each, $240.

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[1] Third session Sixty-second Congress, Record, p. 2339.

Mr. Ben Johnson, of Kentucky, made the point of order that the paragraph was not authorized.

The Chairman [1] having sustained the point of order, Mr. Albert S. Burleson, of Texas, offered the following amendment:

To two elevator inspectors, for the provision and maintenance by themselves of two motor cycles for use in their official inspection of elevators in the District of Columbia, $10 per month each, $240.

Mr. Johnson made the point of order that the amendment was not authorized by existing law.

In debate, Mr. Edward W. Saunders, of Virginia, said:

Mr. Chairman, I desire to address myself to the point of order. When a policy is established to be carried out or discharged by a department, or bureau head, or their equivalent, it is entirely competent to appropriate for the agents required to carry out the policy, and for the instrumentalities that promote the efficiency of the agents.

In conformity with this principle we appropriate for the maintenance of the horses of the mounted police, though as I understand these horses are owned by the policemen. This appropriation provides for the maintenance of an instrumentality highly promotive of an efficient discharge of duty by these officials. In a word it greatly increases their efficiency, and in effect renders an increase of their number unnecessary. It is in the interest of economy to make this appropriation. This is not a claim. These men are making none. The amendment makes a direct appropriation to pay for the upkeep of motor cycles, just as we might provide these officials with riding horses, or car tickets, or horse-propelled vehicles in order to increase their efficiency, by providing them with means of rapid transit. These instumentalities multiply the efficiency of these particular officials, and it is entirely competent for this committee to provide for their maintenance. In this connection, I can submit to the Chair, if it is desired, abundant authority to establish that when authority is given to create an official, and to give him a salary, an appropriation may be made to pay for his transportation necessarily incurred in the discharge of his duties. If the official owns the instrumentality, as the officials in this instance happen to do, it is competent for us to provide for their upkeep, just as we might appropriate for the car fare of certain employees when, in the course of duty, it is necessary to use the cars. No question of reimbursement is presented in this amendment. We are primarily and directly providing for the maintenance of the motor cycles of these particular officials, who have frequent occasion to use them in the line of duty.

The Chairman overruled the point of order.

1185. Appropriations for maintenance of police and health and other departments in the District of Columbia are authorized by the organic act creating permanent form of government in the District of Columbia.

On February 4, 1913,[2] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph was read providing for the police department in the District of Columbia.

Mr. Ben Johnson, of Kentucky, in presenting a point of order, said:

Mr. Chairman, I will make this brief statement: The Metropolitan police force was first organized, I believe, in 1861. During the continuance of the war of 1861–1865 the United States Government paid the Metropolitan police force. After the war was over and found conditions

[1] Joseph J. Russell, of Missouri, Chairman.

[2] Third session Sixty-second Congress, Record, p. 2557.

still unsettled, the Metropolitan police was carried along and paid for by the Federal Government until, perhaps, by the act of June 20, 1874. It might have assumed a new form, but the Federal Government nevertheless continued to pay the cost of the Metropolitan police force. When the act of June 11, 1978, was passed, in which was embraced the half-and-half plan, then it devolved upon the Federal Government to pay half and upon the government of the District of Columbia to pay the other half of the cost of maintaining that force. I wish to invite the attention of the Chair particularly to this fact, that here we have two governments—the Government of the United States and the government of the District of Columbia. The act of June 11, 1878, otherwise known as the "organic act," containing, as I just said, the half-and-half principle, went a little further with the police and the schools and the fire department and the streets than that act went with any other contingent expenditure of the government of the District of Columbia. The organic act just referred to recited in specific terms that the cost of maintaining the schools, the police and fire departments, and the building of the streets should be borne half by the Federal Government and half by the District of Columbia.

By that act the Federal Government incurred the expense of one-half of the maintenance of the Metropolitan police force. I repeat that, Mr. Chairman, by the act of June 11, 1878, the Federal Government incurred the expense of paying one-half of the cost of the Metropolitan police. But, Mr. Chairman, in the sundry civil appropriation bill which passed Congress on June 20, 1878, or, in other words, just nine days after the passage of the act of June 11, 1878, this language occurs:

"And the said commissioners are hereby authorized to fix the salaries to be paid to the officers and privates of the Metropolitan police until otherwise provided by law, and to require the Washington Gaslight Co. to light the city lamps at such price as shall to said commissioners appear to be just and reasonable, and all the expenses heretofore incurred by the General Government for the board of health, for the Metropolitan police force, and for gas inspection shall hereafter be a charge upon the government of the District."

Now, Mr. Chairman, I contend that, while it must be admitted that by the act of June 11, 1878, the Federal Government incurred the expense of one-half of the cost of maintaining the Metropolitan police force, yet by the words contained in the sundry civil appropriation act which passed Congress just nine days thereafter that expense was transferred in every way, in every part, from the Federal Government to the government of the District of Columbia.

After debate, the Chairman [1] ruled:

A point of order was directed to the paragraph on the ground, as stated by the gentleman from Kentucky, that it was not in order, because the item should be paid wholly from the revenues of the District of Columbia. The act of June 11, 1878, creating a permanent form of government for the District of Columbia provided that the expense and cost of maintaining the police force should be paid half and half from the revenues of the United States and the revenues of the District of Columbia, respectively. On June 20, 1878, the Congress passed in the sundry civil appropriation bill the following provision:

"And the said commissioners are hereby authorized to fix the salaries to be paid to the officers and privates of the Metropolitan police until otherwise provided by law and to require the Washington Gas Light Co. to light the city lamps at such price as shall to said commissioners appear to be just and reasonable, and all expenses heretofore incurred by the General Government for the board of health, for the Metropolitan police, and for gas inspection shall hereafter be a charge upon the government of the District."

It is evident from reading that section of the act that the words "government of the District" are not employed as designating the legal title of the District government, because the word "government" begins with a small letter. It relates, then, to the fact of government and not to the form of government; the function of government, not the style of government. The act of 1878 having provided in what way the expenses of government of the District should be paid, the Chair fails to see how in any way the insertion of the paragraph in the sundry civil bill would change or conflict with the existing organic act of June 11, 1878.

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[1] S. A. Roddenberry, of Georgia, Chairman.

In this connection it will be noted that in June, 1878, the first session of the Forty-fifth Congress was in progress. At that time there was no District of Columbia appropriation bill eo nomine, but the expenses of the government of the District of Columbia were carried from year to year in the sundry civil bill. The same Congress, then, which enacted the clause of June 20, 1878, was the identical Congress that in 1879, at the second session of the same Congress, passed the sundry civil appropriation bill, charging the expenses of the Metropolitan police force equally against the Federal Treasury and the District treasury.

The act of the same Congress, at its second session, recognizing the half-and-half provision, goes of its own weight as an argument if not an implied construction. The same Congress which engrafted onto the sundry civil bill the paragraph upon which the gentleman from Kentucky bases the point of order, in the year immediately succeeding, provided appropriation for and charged the expense of the Metropolitan police force equally against the Federal Government and the District of Columbia. If there were any ambiguity this circumstance might, under the rules of legal construction, be looked to.

The Chair might recount also somewhat the history of the police force and the health board prior to 1878 and subsequent to 1878, but it seems to the Chair that the language of the section of the act upon which the point of order is sought to be based is sufficient of itself to warrant and, indeed, to impel the Chair to overrule the point of order. The organic act of June 11, 1878, charged the expense of the government of the District jointly and equally against the District and Federal Government revenues. The act of June 20, 1878, in no way changed that law, but in fact reenacted it by charging the maintenance of the Metropolitan police to the government of the District. A reenactment pro tanto. Accordingly the point of order is overruled.

1186. An appropriation to be paid from the District revenues for maintenance of bathing beaches in the District of Columbia was held to be authorized by law.

On February 6, 1913,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was read:

Bathing beach: For superintendent, $600; watchman, $400; temporary services, supplies, and maintenance, $2,250; for repairs to buildings, pools, and the upkeep of the grounds, $1,500, to be immediately available; in all, $4,830.

Mr. Ben Johnson, of Kentucky, offered the following as a substitute for the paragraph:

Bathing beach: For superintendent, $600; watchman, $400; temporary services, supplies, and maintenance, $2,250; for repairs to buildings, pools, and the upkeep of the grounds, $1,500, to be immediately available; in all, $4,830; all of which shall be paid out of the revenues of the District of Columbia derived from taxes and privileges.

Mr. James R. Mann, of Illinois, made the point of order that the amendment was not authorized by law.

After debate, the Chairman[2] ruled:

On a former day when the item of bathing beach was reached in the consideration of the bill a point of order was made against the paragraph on the ground that the provision charging the expense of upkeep, operation, and conduct of the beach on a half-and-half basis was not authorized by law. The original paragraph provided that the items covered by the paragraph should be paid half from the revenues of the District and half from the Federal Treasury. The Chair then ruled that the point of order should be sustained, because under the law no part of the expense

[1] Third session Sixty-second Congress, Record, p. 2644.

[2] S.A. Roddenberry, of Georgia, Chairman.

was chargeable to the Government revenues. The gentleman from Kentucky now moves an amendment providing for the bathing-beach item, with a modification and proviso that all the expense of maintenance shall be paid out of the revenues of the District of Columbia derived from taxes and privileges. The gentleman from Illinois makes the point of order against the paragraph. The Chair finds in the Congressional Record, Fifty-first Congress, first session, the following:

"FREE BATHING BEACH, WASHINGTON, D.C.

"SEC. 2. That the sum of $3,000 is hereby appropriated from any unexpended moneys in the Treasury of the United States to be immediately available for the purposes of this bill."

It will be noted that the bill as reported from the appropriate committee provided that all the expenses should be paid from the Federal Treasury. The gentleman from Illinois, Mr. Cannon, moved to amend section 2 of the bill by striking out the clause making the appropriation payable wholly from the United States Treasury and providing that one-half of the expense should be charged against the revenues of the District of Columbia and one-half against the Federal Treasury. Thereafter Mr. Bliss, of Michigan, was recognized, and offered the following:

"That the sum of $3,000 is hereby appropriated from the revenues of the District of Columbia, to be immediately available, for the purposes of this bill."

It will be observed, then, that the amendment by way of substitute offered by the gentleman from Michigan, Mr. Bliss, was to provide that all the expense should be borne by and chargeable to the revenues of the District of Columbia.

And after the debate the amendment of the gentleman from Michigan, Mr. Bliss, was adopted as just above recorded, charging the entire expense against the District of Columbia. That being the law as it reads, the Chair is of the opinion that the amendment of the gentleman from Kentucky follows the only statute which authorizes an appropriation for the bathing beach to be made and is therefore in order. Accordingly the point of order is overruled.

1187. A provision of law authorizing Commissioners of the District of Columbia to take over and operate fish wharves was held not to authorize an appropriation to reconstruct such wharves.

On December 18, 1913,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Frank W. Mondell, of Wyoming, offered this amendment:

For reconstruction of wharves, $50,000; for market buildings, $125,000.

Mr. Robert N. Page, of North Carolina, having raised a point of order, the Chairman[2] held:

The only provision covering this matter that has been referred to the Chair is found on page 3 of the current law, which reads as follows:

"And the Commissioners of the District of Columbia are authorized and directed in the name of the District of Columbia to take over, exclusively control, regulate, and operate as a municipal fish wharf and market, the water frontage on the Potomac River lying south of Water Street between Eleventh and Twelfth Streets, including the buildings and wharves thereon, and said wharf shall constitute the sole wharf for the landing of fish and oysters for sale in the District of Columbia; and said commissioners shall have the power to make leases, fix and determine rentals, wharfage and dockage fees, and to collect and pay the same into the Treasury, one-half to the credit of the United States and one-half to the credit of the District of Columbia."

Now, the rule relating to this subject is section 2 of Rule XXI, which is as follows:

"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, unless in continuation of appropriations for such public works and objects as are already in progress."

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[1] Second session Sixty-third Congress, Record, p. 1180.

[2] Cordell Hull, of Tennessee, Chairman.

This is not a work in progress, is not authorized by existing law, and therefore it is subject, in the opinion of the Chair, to the point of order made against it, inasmuch as it would be the construction of a new work. Therefore the point of order is sustained.

1188. Authorization of law for use of public-school buildings as social and recreational centers does not warrant appropriations for such purposes.

On December 17, 1920,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

For payment of necessary expenses connected with the organization and conducting of community forums and civic centers in school buildings, including equipment, fixtures, and supplies for lighting and equipping the buildings, payment of janitor service, secretaries, teachers, organizers, and clerks, and employees of the day schools may also be employees of the community forums and civic centers, including maintenance of automobile, $35,000: *Provided,* That not more than 60 per cent of this sum shall be expended for payment of secretaries, teachers, organizers, and clerks.

Mr. Joseph Walsh, of Massachusetts, made the point of order that there was no authority for this provision.

Mr. Charles R. Davis, of Minnesota, maintained that existing law providing that control of the public schools of the District of Columbia by the Board of Education shall extend to and include the use of the buildings for community forums, was sufficient authorization for the proposed appropriations.

The Chairman[2] said:

It is probably a proper and very desirable part of our educational system to have the activities as provided for in this paragraph. The Chair is troubled, however, from the parliamentary standpoint, in endeavoring to find the authorization in existing law for the expenditure of money for this purpose. In this paragraph it states that the payment for expenses shall include "equipment, fixtures, supplies for lighting and equipping" the buildings. In looking at the law the Chair fails to find any authorization for the expenditure of money for those purposes. The Chair can find no authority other than for the use of the buildings, not for the expenditure of money in their upkeep and maintenance. It has been suggested that the matter of maintenance should be implied in the law. The Chair does not feel justified in going that far, and while the Chair feels that these activities are very essential and very proper, he feels compelled to sustain the point of order.

1189. An appropriation for opening, widening, or extending streets and highways in the District of Columbia was held to be authorized by law.

Opinion as to the use and effect of the terms "hereafter" and "whenever" in the enactment of permanent law.

On January 6, 1923,[3] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A point of order made by Mr. Ben Johnson, of Kentucky, was pending against the following paragraph:

To carry out the provisions contained in the District of Columbia appropriation act for the fiscal year 1914, which authorize the commissioners to open, extend, or widen any street, avenue, road, or highway to conform with the plan of the permanent system of highways in that portion

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[1] Third session Sixty-sixth Congress, Record, p. 487.

[2] Frederick C. Hicks, of New York, Chairman.

[3] Fourth session Sixty-seventh Congress, Record, p. 1365.

of the District of Columbia outside of the cities of Washington and Georgetown there is appropriated such sum as is necessary for said purpose during the fiscal year 1924, to be paid wholly out of the revenues of the District of Columbia.

After debate, the Chairman [1] ruled:

The Chair realizes that the determination of this question is of considerable importance. The gentleman from Kentucky referred to the act of April 30, 1906. In the opinion of the Chair this law, the permanency of which is not questioned, authorizes the institution of condemnation proceedings for the purpose of opening, extending, and widening streets. It would seem to the Chair that in the appropriation act of 1914 the provision "that the Commissioners of the District of Columbia are authorized whenever in their judgment the public interest requires it to prepare a new highway plan," is a supplementary authority giving to the commissioners the right under the act of 1906 to extend the highway system in accordance to a definite plan, therefore the question that presents itself to the Chair is this: Is the provision in the act of 1914 permanent law, or was it only temporary? The Chair has taken the time to consider this question rather thoroughly, for he is alive to the fact that it has far-reaching consequences.

The Chair admits that this point of order is a rather close one, and so far as the Chair has been able to ascertain there are no precedents covering the exact situation presented. The present occupant of the chair has frequently been called upon to render decisions involving the placing of legislative provisions on appropriation bills and has uniformly held that unless it was clearly evident that such legislative authorization incorporated in appropriation bills was of a permanent character the authorization thus created would terminate at the end of the fiscal year for which the appropriations were made.

It has been suggested that the test of permanency of legislation on an appropriation bill should rest upon the use or nonuse of the word "hereafter," and while this is the usual and more positive method of making legislation permanent, the Chair dissents from the view that this is the only test, for the Chair feels that other words might easily be and frequently are employed to accomplish the same purpose. By reference to the appropriation act of 1914, the Chair finds that the legislative authority for the extension of the highway system—the permanency of which authority is now disputed—is clothed in this phraseology, "That the Commissioners of the District of Columbia are authorized whenever in their judgment the public interest requires it," and so forth. It seems to the Chair that the word "whenever," as used in this act, is for all intents and purposes synonymous with the word "hereafter."

From a practical standpoint it is hardly conceivable that a comprehensive plan for streets in a great, rapidly growing city could be matured in any fiscal year or that future needs could be accurately anticipated in any 12-month period. Any plan devised by any board of engineers would undoubtedly have to be modified with the growth and development of the city. From the parliamentary standpoint the Chair is cognizant of the fact that under the act of 1914 streets have been opened and extended without additional legislation and that the courts have sustained condemnation proceedings under that act. By the use of the word "whenever" and interpreting the purpose of Congress by the scope of the authority granted in 1914 it seems to the Chair that it was the evident intention to make it an authorization permanent in character, and the Chair therefore overrules the point of order.

1190. An appropriation for Americanization work in the District of Columbia was held not to be authorized by law.

On February 26, 1923,[2] the deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. John L. Cable, of Ohio, proposed this amendment as a new paragraph:

For salaries of teachers of the Americanization work of foreigners in night classes, at not to exceed $3.50 per teacher per night, $2,730.

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[1] Frederick C. Hicks, of New York, Chairman.

[2] Fourth session Sixty-seventh Congress, Record, p. 4683.

Mr. Thomas L. Blanton, of Texas, made the point of order that the appropriation was unauthorized by law.

After debate, the Chairman [1] sustained the point of order.

1191. A law providing for establishment of specific regulations authorizes appointment of agents to enforce such regulations, and in the absence of legislative limitation on the number to be appointed, an appropriation for any number is in order on an appropriation bill.

The law empowering the Commissioners of the District of Columbia to make building regulations was held to authorize the appointment of building inspectors.

While the burden of showing authorization for an appropriation rests upon those supporting the proposed legislation, if a law apparently supporting the appropriation is cited, the burden thereupon shifts to the opposition to show limitation of such law by subsequent legislation.

An appropriation for any object in an appropriation bill provides law only for the year for which appropriated and is not authorization for appropriation in future bills.

On May 1, 1924,[2] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

Building inspection division: For personal services in accordance with the classification act of 1923, $57,080; for temporary additional assistant inspectors, $15,000; in all, $72,080.

Mr. Thomas L. Blanton, of Texas, made the point of order that there was no authority for the provision.

The Chairman [3] ruled:

The act of June 14, 1898, authorizes the Commissioners of the District of Columbia as follows:

"The Commissioners of the District of Columbia be, and they are hereby, authorized and directed to make and enforce such building regulations for the District as they may deem advisable."

That is as broad as any authority can be.

The statute provides that they shall make such building regulations as they may deem advisable. Under that language they may deem it advisable to have 15 inspectors and provide for them and to get Packard automobiles. If there is no limitation, if that is all the law there is, it is as broad as any authorization could be. Under such authorizations 15 inspectors are possible or 50 are possible. Of course it is for Congress to appropriate for such expenses of this department as it desires. It is always a question of how far Congress will go.

In the course of the debate on the point of order Mr. Charles R. Davis, of Minnesota, said:

For 20 years we have had the same bill, and this is the first time a point of order has been made on these items. It has been in every bill since I have been in Congress.

The Chairman held:

The Chair has not time to look at the various statutes on this matter. The Chair understands that the parliamentary rule is that where an item is challenged on the ground that it is

[1] Clifton N. McArthur, of Oregon, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 7655.

[3] William J. Graham, of Illinois, Chairman.

not authorized by law the burden is upon the committee to sustain it. Where the legality of an appropriation is challenged the burden is then upon the proponents of the bill to show that it is sustained by law. In answer to the proposition of the gentleman from Texas the gentleman from Michigan, Mr. Cramton, has shown this statute to the Chair, which is extremely broad. If there are any limitations on that, it is now the burden of those who make the point of order to show the Chair that this statute has been limited by some subsequent enactment.

Mr. Ben Johnson, of Kentucky, having appealed from the decision the Chair was sustained, on division, yeas 105, noes 11.

1192. An appropriation to be expended in case of emergency only was held to be in order on an appropriation bill.

On May 3, 1924,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and this paragraph had been reached:

To be expended only in case of emergency, such as riot, pestilence, public insanitary conditions, calamity by flood or fire or storm, and of like character; and in all cases of emergency not otherwise sufficiently provided for, in the discretion of the commissioners, $4,000; *Provided,* That in the purchase of all articles provided for in this act no more than the market price shall be paid for any such articles, and all bids for any such articles above the market price shall be rejected and new bids received or purchases made in open market, as may be most economical and advantageous to the District of Columbia.

Mr. Thomas L. Blanton, of Texas, made the point of order that there was no authority for the paragraph.

The Chairman[2] held:

This is an item of appropriation to be used as an emergency fund for the District of Columbia. What is there in the law that prohibits Congress from establishing an emergency fund for any department? The Chair believes that it is a legitimate function of Congress to make such a fund if it wants to do so. For instance, Chairman Walsh on February 10, 1921, decided that an appropriation for an emergency, an extraordinary expenditure in the Navy Department, was in order as a necessary incident to the operation of the department. The point of order is overruled.

1193. The law creating a governmental agency and defining its duties impliedly authorizes an appropriation for maintenance, including allowances for automobiles, and in the absence of statutory limitation any amount may be appropriated.

On May 3, 1924,[3] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

For all expenses necessary and incident to the enforcement of an act entitled "An act to create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes," approved May 1, 1906, including personal services when authorized by the commissioners, $2,452, including an allowance at the rate of $26 per month for furnishing an automobile for the performance of official duties

Mr. Thomas L. Blanton, of Texas, made a point of order that there was no authority of law for the provision.

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[1] First session Sixty-eighth Congress, Record, p. 7783.

[2] William J. Graham, of Illinois. Chairman.

[3] First session Sixty-eighth Congress, Record, p. 7781.

The Chairman [1] said:

The act to create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes, approved May 1, 1906, is a general act. It gives broad and comprehensive powers to a board, to be known as the Board for the Condemnation of Insanitary Buildings in the District of Columbia, to do certain things in and about the District in the examination and condemnation of insanitary buildings, a very useful work and a necessary adjunct to the government of such a place as the District of Columbia.

Now, the gentleman from Texas states, in support of his point of order, that an allowance for an automobile would not be permissible and in order, unless there was some authority of law for the hiring of an automobile. The Chair can not see how that can follow. Would it be contended, for instance, that it would be necessary, before the Congress could appropriate for stationery for typewriting purposes, that there must be authority given by law to the board to buy typewriting machines?

There is no law which authorizes the Board for the Condemnation of Insanitary Buildings to buy typewriters, to buy vehicles, or buy office furniture, specifically stating it, but it is commonly conceded that they must have that right otherwise they could not function. So it must be true that if it is necessary for them to use an automobile they ought to have the right to do so, and if they can buy an automobile it follows that Congress may appropriate a reasonable amount for the maintenance of the automobile. That is always true when Congress gives broad, general powers and does not restrict and limit those powers, and Congress has not done so in this case.

If a department is authorized by law to perform certain duties, it must necessarily follow, unless Congress has limited it, that that department must have the necessary things with which to do its business and the Congress may appropriate for such purposes. The point of order is overruled.

1194. Appropriations for typewriters, filing cases, and other essential equipment for an office authorized by law are in order on an appropriation bill.

On May 3, 1924,[2] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

For the purchase of special typewriting equipment, typewriters, cards, and file cases, for the use of the offices of the assessor and collector of taxes, to be immediately available, $5,000.

Mr. Thomas L. Blanton, of Texas, raised the point of order that the appropriation was not authorized by existing law.

The Chairman [1] held:

The Chair has endeavored on several occasions to express his ideas about matters which were necessary for the conduct of an office which is authorized by law. The Chair is of opinion that such things as are necessary to carry on these legally constituted offices can be appropriated for, and therefore the point of order is overruled.

1195. An appropriation for machinery required for repair and maintenance of sewers was held to be in order on an appropriation bill.

On May 3, 1924,[3] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when

[1] William J. Graham, of Illinois., Chairman.

[2] First session Sixty-eighth Congress, Record, p. 7783.

[3] First session Sixty-eighth Congress, Record, p. 7791.

Mr. Thomas L. Blanton, of Texas, raised a question of authorization against this paragraph:

For cleaning and repairing sewers and basins, including the purchase of two motor field wagons at not to exceed $650 each, the purchase of two motor trucks at not to exceed $650 each, and the purchase of one motor tractor at not to exceed $650; for operation and maintenance of the sewage pumping service, including repairs to boilers, machinery, and pumping stations, and employment of mechanics and laborers, purchase of coal, oils, waste, and other supplies, and for the maintenance of motor vehicles used in this work, $231,000.

The Chairman [1] held that the appropriation was authorized, and overruled the point of order.

1196. An appropriation for traveling expenses of the President, within the prescribed statutory limit, is authorized by law.

On July 15, 1909,[2] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

For traveling expenses of the President of the United States, to continue available during the fiscal year 1910, and to be expended in his discretion and accounted for on his certificate solely, $25,000.

Mr. Robert B. Macon, of Arkansas, made the point of order that there was no law authorizing the appropriation.

The Chairman ruled: [3]

The simple question is raised whether or not the House is authorized to appropriate for the traveling expenses of the President on a general appropriation bill. The act of June 23, 1906, must be presumed to have had a meaning and a purpose and its title is, "An act to provide for the traveling expenses of the President of the United States." The language which follows shows that it was not intended to make provision for a single year at all. It expressly refers to "such sum as Congress may from time to time appropriate, not exceeding $25,000 per annum," and then makes provision for an accounting; and while this language is not, perhaps, as apt as might be desired, yet its intent and purpose, it seems to the Chair, can not be mistaken, which seems to provide, that within a limit of $25,000 per annum, the traveling expenses of the President of the United States should be such sum as was appropriated. The Chair accordingly overrules the point of order.

1197. Although the purpose for which proposed is sanctioned by the Constitution, an appropriation is not in order on general appropriation bills unless authorized by provision of statutory law.

The provision of the Constitution directing the President to make recommendations to Congress was held not to authorize appropriations for agencies to secure information to be used in the discharge of that duty.

An appropriation enabling the President to gather tariff information by appointment of a tariff board was held not to be in order on an appropriation bill.[4]

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[1] William J. Graham, of Illinois, Chairman.

[2] First session Sixty-first Congress, Record, p. 4482.

[3] Irving P. Wanger, of Pennsylvania, Chairman.

[4] Superseded by act of September 8, (U. S. Code, title 19, sections 91 et seq.).

On May 23, 1910,[1] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A point of order raised by Mr. John J. Fitzgerald, of New York, was pending on this paragraph:

To enable the President to secure information as to the effect of tariff rates or other restrictions, exactions, or any regulations imposed at any times by any foreign country on the importation into, or sale in, any such foreign country of any agricultural, manufactured, or other product of the United States, and to assist the officers of the Government in the administration of the customs laws, as required by the tariff act approved August 5, 1909, including detailed information of the cost, and of each and every element thereof, of producing at the place of production and at the place of consumption of all articles specified in said tariff act both in this country and in the country from which such articles are imported, so that the cost of all such articles produced abroad may be compared with the cost of like articles produced in this country, the President, in the employment of persons required and authorized for such service, may appoint a tariff board, and he may also employ, under his personal direction, or under the direction and supervision of such tariff board, such competent experts in the business and methods of cost keeping and such clerical and other personal services, including rent of offices in the District of Columbia, traveling and other incidental expenses, as may be necessary in the work of said board and the work of said experts engaged in such investigations; and the compensation of all such persons, whether employed permanently or temporarily, shall be fixed by the President; and to enable the President to have such information classified, tabulated, and arranged for his use in recommending to Congress such changes or modifications in any existing tariff duties as he may deem necessary to prevent undue discrimination in favor of or against any of the products of the United States, $250,000.

After exhaustive debate, the Chairman[2] read both the pending paragraph and clause 2 of Rule XXI, and said:

This is one of the old rules of the House, and in all of the controversy relating to the rules which has gone on in recent years the Chair believes that no one has suggested that this rule be materially changed or modified in any particular.

It is said, however, that under the provisions of the Constitution the proposition in the bill is in order. Section 3 of Article Il of the Constitution, relating to the duties and powers of the President, says:

"He shall from time to time give to the Congress information of the state of the Union and recommend to their consideration such measures as he shall judge necessary and expedient."

And it is claimed that because of this provision of the Constitution it is in order on an appropriation bill to make an appropriation to allow the President to acquire information in order that he may intelligently recommend to Congress such provisions as to him seem meet.

It might often occur that the President desired information in order to make recommendations to Congress. The President might desire to have full information in reference to all of the water powers of the country in order that he might recommend to Congress what legislation should be enacted in reference to the construction of dams.

The President might desire information as to all matters of public works in order that he might make recommendations to Congress in regard to them. But the Chair thinks that no one will claim that under this provision of the Constitution it would be in order on an appropriation bill to give to the President unlimited power to acquire information. The acquirement of information is not mentioned in this provision of the Constitution. The acquirement of information by the President through an appropriation must be in accordance with some law of Congress; and it is not wholly within the power of the President unless Congress gives him that power, or an appropriation, to acquire information at the public expense, even although he might consider it desirable information, in order to allow him to make his recommendations to Congress.

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[1] Second session Sixty-first Congress, Record, p. 6764.

[2] James R. Mann, of Illinois, Chairman.

And the Chair does not think that under that provision of the Constitution it is in order on an appropriation bill to provide for the expenditure of money not authorized by some provision of law, for the acquiring of information to be used by the President in making recommendations to Congress.

In section 2 of the tariff act is the provision relating to the so-called maximum and minimum tariff, and it is provided in that section that the President, after the 31st of March last—"and so long thereafter as the President shall be satisfied, in view of the character of the concessions granted by the minimum tariff of the United States, that the government of any foreign country imposes no terms or restrictions, either in the way of tariff rates or provisions, trade or other regulations, charges, exactions, or in any other manner, directly or indirectly, upon the importation into or the sale in such foreign country of any agricultural, manufactured, or other product of the United States, which unduly discriminate against the United States or the products thereof, and that such foreign country pays no export bounty or imposes no export duty or prohibition upon the exportation of any article to the United States which unduly discriminates against the United States or the products thereof, and that such foreign country accords to the agricultural, manufactured, or other products of the United States treatment which is reciprocal and equivalent."

Thereupon the President may make a proclamation awarding the minimum tariff to such country.

It will be noted that this part of section 2 applies to the question of discrimination in some form against the United States, or the manufactured, or agricultural or other products of the United States; and the discrimination is in a way defined, stating how the discrimination may be exercised, and making it then in general terms a question of discrimination which the President is authorized to ascertain.

If the discrimination exists unduly, the President then can not issue a proclamation awarding the minimum tariff, but the maximum tariff is in effect against such country. If the President finds that no undue discrimination exists, the President is authorized to issue his proclamation allowing the minimum tariff. This power of the President undoubtedly remains in force, because the President has the power at any time to make a continuing examination to ascertain whether at some future time the discrimination still does not exist, and if he finds undue discrimination has been exercised since his previous proclamation, he may issue a proclamation restoring the maximum tariff.

Then the section provides:

"To secure information to assist the President in the discharge of the duties imposed upon him by this section, and the officers of the Government in the administration of the customs laws, the President is hereby authorized to employ such persons as may be required."

Undoubtedly it is in order on an appropriation bill to make an appropriation somewhat at least in the form of the appropriation which is now existing, which was made in the law of August 5 last, which reads:

"To enable the President to secure information and to assist the officers of the Government in the administration of the customs law, as provided in section 2 of the bill relating to the maximum and minimum rates"—

And so forth.

And the question is now whether under this provision of section 2 giving authority to the President to secure information to assist him in the discharge of the duties imposed upon him by section 2 of the act, or to assist the officers of the Government in the administration of the customs laws, the pending provision is in order.

Section 2 of the law under which the President may secure information to assist him in the discharge of the duties imposed upon him by that section seems to confine the duties imposed by that section to the ascertainment of the question of undue discrimination. But it is claimed that the other provision of the section—to acquire information to assist the officers of the Government in the administration of the customs law—gives authority for the provision in the bill.

Section 8 of the customs administrative law, as amended in the Payne law, provides that when merchandise entered for customs duty has been "consigned for sale" by or on account of the manufacturer thereof, and so forth, and seems to be confined so far as the operations of

section 8 are concerned to the question of ascertaining in regard to the merchandise which has been consigned for sale.

Section 10 of the administrative law as amended provides:

"That it shall be the duty of the appraisers of the United States and every of them, and every person who shall act as such appraiser or of the collector, as the case may be, by all reasonable ways and means in his or their power to ascertain, estimate, and appraise the actual market value and wholesale price of the merchandise at the time of exportation to the United States in the principal markets of the country whence the same has been imported, and the number of yards, parcels, or quantities, and actual market value or wholesale price of every of them, as the case may require."

That would seem to be confined, so far as direct authority is concerned, to the ascertainment of such value by the appraisers or some one acting as appraiser, or by the collector; but whether that be the case or not, it is plainly confined to the question of ascertainment of the market value of property which is actually imported at the time of the exportation to the United States. It can not be considered as general in character.

Section 11 of the administrative law as amended by the Payne Act provides:

"That when the actual market value, as defined by law, of any article of imported merchandise, wholly or partly manufactured and subject to an ad valorem duty, or to a duty based in whole or in part on value, can not be ascertained to the satisfaction of the appraising officer, such officer shall use all available means in his power to ascertain the cost of production of such merchandise at the time of exportation to the United States and at the place of manufacture, such cost of production to include the cost of material"—

and various items that are there stated. That section of the law plainly confines the law to the collection of information concerning merchandise which is subject to an ad valorem duty, or to a duty based in whole or in part on value, and can not be construed and applied to all classes of merchandise.

There is also a section in the act creating the Department of Labor which gives to the Commissioner of Labor authority to ascertain information as to the cost of articles which are imported, but that authority under the law is confined to the Commissioner of Labor or to the Department or Bureau of Labor.

The provision which is pending, and which grammatically seems not to provide an appropriation to enable the President to secure information as to the effect of tariff rates or other restrictions, but which grammatically provides that to enable the President to secure information as to the effect of tariff rates or other restrictions and to assist the officers of the Government in the administration of the customs laws, "including detailed information of the cost," and so forth, "the President, in the employment of persons required and authorized for such service, may appoint a tariff board," and so forth.

It seems to the Chair that that is a clear authorization to the President to do a particular thing. It is said that it is authorized by existing law. As the Chair has pointed out in reference to the different sections, the authority under the existing law is an authority confined to the particular things in particular directions. But this paragraph provides:

"Including detailed information of the cost of each and every element thereof, of producing at the place of production and at the place of consumption of all articles specified in said tariff act, both in this country and in the country from which such articles are imported, so that the cost of all such articles produced abroad may be compared with the cost of like articles produced in this country."

There is no restriction in this authority. It authorizes—if it is an authorization—the President to secure this information concerning every item that is mentioned in the tariff act, whether the item be imported or not. The paragraph contains other provisions in regard to the employment of persons under the tariff board or under the personal direction of the President, and various directions as to the character of the work to be performed by them.

If the President, under the existing law, has the authority to employ these persons, then this provision in the bill will be obnoxious to the rule, as a limitation upon the authority of the President. If he does not have the authority it is obnoxious to the rule, because it confers an

authority which does not now exist. For the reasons stated the Chair feels compelled to sustain the point of order.

1198. An appropriation for examination of Presidential postmasters was held to be authorized by law.

On January 21, 1922,[1] the independent offices appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. William F. Stevenson, of South Carolina, reserved a point of order on this paragraph:

For examination of presidential postmasters, including travel, printing, stationery, contingent expenses, additional examiners and investigators, and other necessary expenses of examinations, $75,000: *Provided,* That no person shall be employed hereunder at a rate of compensation exceeding $1,800 per annum, except five at not to exceed $3,500 each.

After debate, the Chairman[2] ruled:

The question arises on the paragraph making appropriation for the purpose of examination by the Civil Service Commission of presidential appointees for post offices. It is admitted that this examination is required under existing order by the President. The question is whether or not it is authorized by existing law. There must be some provision of existing law that authorizes the appropriation or else it is not authorized by existing law.

The provision referred to as existing law is in this book known as Barnes's Federal Code, page 621, and is a part of section 2859:

"It shall be the duty of said commissioners: First to aid the President, as he may request, in preparing suitable rules for carrying this act into effect, and when said rules shall have been promulgated it shall be the duty of all officers of the United States in the departments and offices to which any such rules may relate to aid, in all proper ways, in carrying said rules, and any modification thereof, into effect."

It is suggested there may possibly be an inference, at least, that these provisions might refer to merely the classified service. However, the broad scope of power is shown by the provision in the same chapter with reference to the limitation on the activities of Congressmen:

"No recommendations of any person who shall apply for office or place under the provisions of this act which may be given by any Senator or Member of the House of Representatives, except as to the character or residence of the applicant, shall be received or considered by any person concerned in making an examination or appointment under this act."

That evidences, of course, a very broad interpretation of the act, as it applies to any person who shall apply for any "office or place." That would necessarily include applicants for post offices.

As the power is granted without reservation to the President to make such appointments, and as he is authorized to prescribe rule and regulations for the Civil Service Commission, it would appear that the authority is complete in law for the appropriation of funds from the Treasury for such purpose. The giving of additional duties to an appointee of the President by an Executive order of the President, it seems, would clearly imply that such service must be paid for. As the President has the power to make orders to increase the efficiency and to regulate even the duties and prescribe rules for the conduct of the Civil Service Commission, if he has given an Executive order to the Civil Service for the performance of duties with regard to his office, and appropriation for such service is clearly within the provisions of the law. The Civil Service Commission is not limited only to duties with regard to the classified service. The President can create new duties and ask them to perform any duties under existing law that he chooses to do, and he has chosen to do that in this case.

Therefore it seems to the Chair that the appropriation is authorized by existing law, and the point of order is overruled.

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[1] Second session Sixty-seventh Congress, Record, p. 1545.

[2] Horace M. Towner, of Iowa, Chairman.

1199. Appropriations for the examination of estimates of appropriations in the field by committees or subcommittees of Congress were held not to be authorized by law.

It is incumbent on proponents to cite legislative authority for appropriations.

On January 2, 1927,[1] during consideration of the independent offices appropriation bill, the Clerk read the paragraph making appropriation for the emergency shipping fund, including the following language:

For expenses of the United States Shipping Board Emergency Fleet Corporation during the fiscal year ending June 30, 1928, for administrative purposes, the examination of estimates of appropriations in the field, miscellaneous adjustments, losses due to the maintenance and operation of ships, for the repair of ships, and for carrying out the provisions of the merchant marine act, 1920, the amount on hand July 1, 1927.

Mr. Ewin L. Davis, of Tennessee, submitted that the provision for the examination of estimates of appropriations in the field, and intended to provide transportation for committees of Congress, was not authorized by law.

The Chairman[2] ruled:

In the absence of the citation requested by the Chair from the chairman of the committee the Chair is unable to find in the law any provision whereby appropriations could be diverted from the Shipping Board to pay the expenses of any committee of Congress. Consequently, the Chair concludes that any provision drawn with that intent must be legislation, and therefore sustains the point of order.

1200. A declaration of policy embodied in a statute was held not to authorize appropriations for purposes germane to the policy but not specifically authorized by the act.

On January 12, 1927,[3] the Committee of the Whole House on the state of the Union had under consideration the independent offices appropriation bill.

When the paragraph making appropriation for the United States Shipping Board Emergency Fleet Corporation was reached, Mr. Thomas L. Blanton, of Texas, raised a point of order against the appropriation for loans to purchasers of ships.

Mr. William R. Wood, of Indiana, in controverting the point of order, cited the declaration of policy carried in the merchant marine act as authorizing the appropriation.

The Chairman[2] ruled:

The Chair will decide the point of order made by the gentleman from Texas to the whole paragraph. Section 751, Barnes Code, is cited by the gentleman from Indiana as a basis for writing the language into the appropriation bill authorizing the Fleet Corporation to make loans, and that section is as follows:

"It is hereby declared to be the policy of the United States to do whatever may be necessary to develop and encourage the maintenance of such a merchant marine."

If a declaration of policy were law, of course that would be a fact; but if the Congress when it passed the merchant marine act had intended to carry with the declaration of policy the author-

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[1] Second session Sixty-ninth Congress, Record, p. 1523.

[2] James T. Begg, of Ohio, Chairman.

[3] Second session Sixty-ninth Congress, Record, p. 1533.

ity to do anything and everything within the judgment of the Emergency Fleet Corporation, then, in the judgment of the Chair, the Congress would not have immediately followed the declaration of policy by an enumeration of powers that the Emergency Fleet Corporation could exercise, to wit, to buy and sell, and the restriction that when they do sell they must sell the good vessels to American citizens and can sell only the poor vessels to foreigners, and also the establishment of lines of commerce and loaning for the purpose of reconstruction for a period of 15 years. If this language is not legislation and is written into the law, then they can make a loan for 100 years, and by that loan defeat the purpose of Congress when it provides that when a ship is sold the Government must receive complete payment for the ship within a period of 15 years.

It appears to the Chair that if the Shipping Board were to sell a vessel to A and receive 50 per cent in cash and 50 per cent payable in 15 years, the only thing necessary for A to do in order to defeat the law would be to go to the same Shipping Board and borrow the 50 per cent he owes the Shipping Board for 100 years, and he would thereby postpone the payment of the 50 per cent for a period of 85 years, which is contrary to law.

It seems to the Chair that the declaration of policy does not permit the board to loan or authorize appropriations making available money for loans by this agency. The Chair, therefore, sustains the point of order against the paragraph.

1201. Appropriations for expenses of officers or employees of the United States or of the District of Columbia in attending conventions of societies or associations in connection with their official duties are in order on an appropriation bill.

On February 14, 1930,[1] the independent offices appropriation bill was being considered in the Committee of the Whole House on the state of the Union.

The Clerk read this paragraph:

For all other authorized expenditures of the Federal Trade Commission in performing the duties imposed by law or in pursuance of law, including secretary to the commission and other personal services; contract stenographic reporting services to be obtained on and after the approval of this act by the commission, in its discretion, through the Civil Service or by contract or renewal of existing contract; or otherwise; supplies and equipment; law books; books of reference; periodicals; garage rental; traveling expenses, including not to exceed $900 for expenses of attendance, when specifically authorized by the commission, at meetings concerned with the work of the Federal Trade Commission.

Mr. Wright Patman, of Texas, made the point of order that the appropriation for the expenses of members of the Federal Trade Commission in authorized attendance upon meetings concerned with the work of the Commission was not warranted by law.

Mr. Edward H. Wason, of New Hampshire, opposed the point of order and in authorization of the appropriation quoted section 83, Title V, of the United States Code.

The Chairman[2] ruled:

The point of order is made against the following language:

"Including not to exceed $900 for expenses of attendance, when specifically authorized by the commission, at meetings concerned with the work of the Federal Trade Commission."

The point of order is made to this language because there is no authorization for it under the law. The attention of the Chair has been called by the chairman of the subcommittee to title 5, chapter 1, section 83, of the law, which was read and which is as follows:

"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

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[1] Second session Seventy-first Congress, Record, p. 3680.

[2] Cassius C. Dowell, of Iowa, Chairman.

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."

It seems to the Chair that the language used in the appropriation carries out specifically what the law says shall be done if appropriations are made. The Chair overrules the point of order.

1202. Law authorizing designated parties to take certain action was construed as not authorizing an appropriation to compensate the Government for expenditures in taking such action.

Authorization for Indians to lease their lands was held not to authorize an appropriation to enable the Government to lease the same lands. [1]

On February 11, 1908,[2] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

For clerical work and labor connected with the leasing of Creek and Cherokee lands, for mineral and other purposes, and the leasing of lands of full-blood Indians under the act of April 26, 1906, $40,000: *Provided*, That the sum so expended shall be reimbursable out of the proceeds of such leases and shall be equitably apportioned by the Secretary of the Interior from the moneys collected from such leases.

Mr. James S. Davenport, of Oklahoma, raised a question of order on the paragraph.

The Chairman [3] said:

There was, as the Chair understands, passed in 1906 a statute which authorized the Indians to lease certain lands. That authorized the Indians to lease these lands, but the Chair does does not find in that bill any provision directing or authorizing the Government to be at the expense of that leasing, and furnish either the clerical work or labor. So the provision, to the Chair, seems to be merely an authorization by which the Indians could at their own trouble and at their own expense go on and make leases. The law of 1906 merely authorizes the Indians themselves to make leases of this character.

The present bill, instead of leaving the Indians to do that themselves, makes an appropriation of the sum of $40,000 to pay the expenses of the work, the Government appearing and doing the work itself, and imposing as a condition that if the Government pays that expense the Government shall be repaid. The Chair is ready to rule, and though he is very loath himself to so rule, yet, after consultation with a gentleman [4] who is an excellent authority and who seems to be very clear, the Chair sustains the point of order.

1203. Under the former practice, when jurisdiction over appropriations was distributed among several committees, an amendment proposing an appropriation for Indians of Alaska (ordinarily carried in the sundry civil appropriation bill) was held not germane to the Indian appropriation bill.

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[1] Now authorized by the act of November 2, 1921 (U.S. Code, title 25, section 13).

[2] First session Sixtieth Congress, Record, p. 1849.

[3] James B. Perkins, of New York, Chairman.

[4] Asher C. Hinds, clerk at the Speaker's table.

On February 19, 1910,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and the following paragraph had been read:

For the suppression of the traffic in intoxicating liquors among Indians, $70,000.

A point of order made by Mr. Charles H. Burke, of South Dakota, was pending against the following amendment offered by Mr. John J. Fitzgerald, of New York:

Amend by inserting after "Indians" the words "including those in the Territory of Alaska."

At the conclusion of the debate on the point of order, the Chairman ruled:[2]

The statute to which the chair has been referred, section 462 of the Revised Statutes, providing for a Commission of Indian Affairs, was passed in 1832, long before we had Alaska. That would make no difference if Alaskans were Indians within the meaning of that act. But all the laws relating to the Indian Bureau and the Indian Department; as, for instance, section 2046 of the Revised Statutes, seem to relate to what we commonly call Indians within the United States. The President is authorized by that section to appoint from time to time superintendents of Indian affairs. Then the statute enumerates the States and Territories within which they may be appointed. Alaska is not mentioned. The Chair does not find that Alaska is mentioned in any of the acts, early or late, relating to the Indian Service, or to the creation of the Bureau of Indian Affairs. The Chair does not find that they have ever been appropriated for in bills coming from the Indian Affairs Committee, but always in bills coming from the Committee on Appropriations, such as the sundry civil bill. There is in that bill, as passed last year, provision for the education of Alaskans, a provision for the purchase of reindeer for natives of Alaska, for the instruction of Alaskan natives in the care and management of reindeer, and so forth. All the provisions of law relating to Alaska and governing the natives of Alaska are found in the sundry civil appropriation bill.

The gentleman from New York refers the Chair further to an act of Congress providing for the government of Alaska, in which it is declared that for the purposes of that act the natives of Alaska shall be considered Indians.

That is to say, they are statutory Indians for the purpose of that act only. The Chair is of the opinion that the statute upon the subject of the Indian Bureau and controlling the Indian affairs, and the rule requiring certain matters to be referred to the Committee on Indian Affairs, all have reference to the Indians of the United States and not to the natives of Alaska, which by statute have been declared to be Indians for the purposes of that particular act. The Chair thinks the amendment is not germane, and sustains the point of order.

1204. A law authorizing operations by other than governmental agencies and without expense to the Government was held not to authorize an appropriation for such operations.

A law permitting Indians to remove timber from reservations does not authorize an appropriation for that purpose.[3]

On February 21, 1910,[4] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A point of order by Mr. James R. Mann, of Illinois, was pending on the following paragraph:

To conduct experiments on Indian school or agency farms designed to test the possibilities of soil and climate in the cultivation of trees, grains, vegetables, and fruits, using Indian labor in

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[1] Second session Sixty-first Congress, Record, p. 2121.

[2] Marlin E. Olmsted, of Pennsylvania, Chairman.

[3] Subsequently authorized by act of November 2, 1921 (U.S. Code, title. 25. section 13).

[4] Second session Sixty-first Congress, Record, p. 2185.

the process; for the purpose of preserving living and growing timber on Indian reservations and removing dead timber, standing or fallen, therefrom, and to advise the Indians as to the proper care of forests, and to conduct such timber operations and sales of timber as may be deemed advisable and provided for by law, except on the Menominee Indian Reservation in Wisconsin; for the employment of suitable persons as matrons to teach Indian women housekeeping and other household duties, at a rate not to exceed $60 per month, and for furnishing necessary equipments and renting quarters for them where necessary; and for the employment of practical farmers and stockmen, subject only to such examination as to qualifications as the Secretary of the Interior may prescribe, in addition to the agency and school farmers now employed, to superintend and direct farming and stock raising among Indians, $250,000: *Provided,* That the amounts paid to matrons, farmers, and stockmen herein provided for shall not come within the limit for employees fixed by the act of June 7, 1897.

After extended debate, the Chairman [1] ruled:

The statute, sent to the Chair, relates to specific tribes or reservations, namely, the Flathead, Chippewa, and Jicarilla. The paragraph in question seems to be limited. The act of February 16, 1889, reads as follows:

"That the President of the United States may from year to year, in his discretion, under such regulations as he may prescribe, authorize the Indians residing on reservations or allotments, the fee to which remains in the United States, to fell, cut, remove, or otherwise dispose of the dead timber, standing or fallen, on said reservation or allotment for the sole benefit of such Indian or Indians."

Now, the act of 1889, just read, provides that the President may authorize Indians to remove dead timber, and so forth. This paragraph appropriates money for that purpose. That does not seem to be within the meaning and intendment of the act of 1889, which states that the Indians are to do it. It does not contemplate any expense to the Government in connection therewith.

The first part of the paragraph, in relation to conducting experiments on Indian school or agency farms in the cultivation of trees, grains, and so forth, seems to the Chair to be fairly covered by section 2071 of the Revised Statutes, which says that—

"The President may, in every case where he shall judge improvement in the habits and conditions of such Indians practicable and that the means of instruction can be introduced with their consent, employ persons of good moral character to instruct them in the mode of agriculture suited to their situation"—

That is very broad language—

"and for teaching their children in reading, writing, and arithmetic, and to perform such other duties as may be enjoined according to such instructions and rules as the President may give and prescribe for the regulations of their conduct in the discharge of their duties."

That is very broad language. But it is, perhaps, unimportant to consider it further here; for if there is any provision in the paragraph which renders it subject to the point of order, then of course, the whole paragraph must go out. The Chair has just indicated one such provision. Furthermore, the provision in line 13:

"Subject only to such examination as to qualifications as the Secretary of the Interior may prescribe."

In the opinion of the Chair this does mean to confer upon the Secretary by legislation power and discretion which he does not now possess. Then we come to the provision:

"That the amounts paid to matrons, farmers, and stockmen herein provided for shall not come within the limit for employees fixed by the act of June 7, 1897."

It seems to the Chair that that proviso changes existing law, in violation of Rule XXI.

The Chair is therefore compelled to rule that the point of order must be sustained.

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[1] Marlin E. Olmsted, of Pennsylvania, Chairman.

1205. Unless specifically authorized by treaty obligations or statutory provision, any appropriation for support or civilization of Indians is within the rule and is not in order on an appropriation bill.[1]

Statutory authorization for support of designated Indian tribes does not authorize appropriations for other Indians even when formerly members of the tribes enumerated.[1]

An appropriation for investigation of condition of Indians was held not to be in order on an appropriation bill.

On February 21, 1910,[2] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph had been reached:

For the purpose of investigating the conditions of the Seminole Indians in Florida and the Alabama Indians in Texas, $5,000; and the Secretary of the Interior is directed to report the result of such investigation to Congress at the next session.

Mr. James R. Mann, of Illinois, in presenting a point of order said:

To that paragraph I reserve a point of order. The point of order is that there is no authority in law for this appropriation at all; there is no treaty agreement under which the Government is bound to support these Indiana or to make inquiry in regard to them. There is no treaty obligation here. If there were a treaty obligation here, of course we would be bound to carry out the treaty. Without a treaty obligation, the question is whether there is any general provision of the statute which covers the question. This is not for the purpose of supporting the Indians, but for the purpose of investigating the condition of certain tribes of Indians, where there is no treaty obligation to support.

There was a special act of Congress for the removal of those Seminole Indians from Florida to the western country. Most of them were removed under that act of Congress. Some of them preferred to remain in the Everglades, as they were entitled to. There was no authority granted to the President, as I recall history, in reference to the Seminole Indians remaining in the Everglades. There was a long contest between the State of Florida and those Indians extending over years, but there was no authority granted to the President in reference to supporting them or in reference to control over them whatever. They have lived without regard to the Government ever since the settlement of the war down there, when they were trying to keep us out of the country.

The Chairman[3] ruled:

It occurs to the Chair that the point of order must be sustained unless there can be shown that these particular Indians bear such a relationship to the Government as that we are charged with some supervision or guardianship over them. And if they are without that limitation, then we have no more right to appropriate money in this bill for an examination of their condition than to examine the condition of white people in any county in the United States.

A question almost identical with this one was presented to the House in the Fifty-sixth Congress, when an amendment to this effect was offered to the Indian appropriation bill.

"For the support and civilization of the Shebits, Muddy, and other Indians in southern Utah, $2,500."

A Member of the House by the name of Joseph G. Cannon raised the point of order, and the Chairman, in deciding it, cited Rule XXI, which the committee all know:

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[1] Subsequently an act was passed authorizing appropriations for certain activities of the Bureau of Indian Affairs, U. S. Code, title 25, section 13.

[2] Second session Sixty-first Congress, Record, p. 2192.

[3] Marlin E. Olmsted, of Pennsylvania, Chairman.

"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, unless in continuation of appropriations for such public works and objects as are already in progress."

The question here, then, is whether the support for these Indians has heretofore been authorized by law. The Chair thinks that there is much in the point the gentleman from New York has just stated in reference to the meaning of those sections 2046 and 2052.

They seemed to indicate the Indians over whom the Government was to exercise some supervisory and helpful authority; and the further reference to the subject under section 2071, the Chair thinks, is limited by the provisions of those two sections. The Chair has not had his attention called to any existing law authorizing the extension of aid to these particular Indians named in the section, and therefore sustains the point of order.

1206. The authority of the Government to exercise control over the Indian tribes authorizes an appropriation for employment of counsel to represent their interests in litigation.

On February 22, 1910,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. William E. Cox, of Indiana, made a point of order on this paragraph:

For pay of one special attorney for the Pueblo Indians of New Mexico, $1,500; for necessary traveling and incidental expenses of said attorney, $500; in all, $2000.

After debate, the Chairman[2] decided:

It appears that these Indians live in the Indian country; they are within the class of Indians which the statutes which have been read during the discussion of this bill refer to as placed within the care of the President of the United States and the Indian Bureau. They are living, as stated, in that Indian country upon a reservation. It seems that under a fair construction of the several statutes which have been cited—and it is not necessary to consume time to refer to them again at length—the Government has the authority to employ counsel to defend the rights of those Indians where they are attacked. If there is authority for the employment, there is sufficient authority of law to support an appropriation to cover the expense.

It seems to the Chair, without further elaboration, that the point of order must be overruled.

1207. An appropriation for the support and education of Indians in a Government school was held to be in order on an appropriation bill.

On February 22, 1910,[3] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Philip P. Campbell, of Kansas, offered this amendment:

For support and education of 500 Indian pupils at the Indian school at Chilocco, Okla., and for pay of superintendent, $83,500; for general repairs and improvements, $6,500; in all, $90,000.

A point of order by Mr. John H. Stephens, of Texas, against the amendment, on the ground that it was not authorized, was overruled by the Chairman.[2]

1208. A statute authorizing the President, within his discretion, to order survey of agricultural lands was held not to authorize a survey by the Interior Department of certain Indian lands.[4]

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[1] Second session Sixty-first Congress, Record, p. 2208.

[2] Marlin E. Olmsted, of Pennsylvania, Chairman.

[3] Second session Sixty-first Congress, Record, p. 2212.

[4] Now authorized by the act of November 2, 1921. (U.S. Code Title 25, section 13.)

On January 7, 1913,[1] The Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A point of order raised by Mr. John H. Stephens, of Texas, was pending on the following amendment offered as a new paragraph by Mr. Charles N. Pray, of Montana:

The sum of $75,000, or so much thereof as may be necessary, $25,000 of which shall become immediately available, is hereby appropriated, out of any funds, in the Treasury not otherwise appropriated, for the purpose of surveying the land within the Tongue River or Northern Cheyenne Indian Reservation, Mont., for completing the survey of the lands within the Fort Belknap Indian Reservation, Mont., and for making a meander survey around the Flathead Lake so as to identify the lands embraced within the power-site withdrawal of 100 linear feet around that lake back from the high-water mark for the year 1909.

The Chairman[2] said:

The Chair will now dispose of a point of order made earlier[3] in the day to an amendment sent up by the gentleman from Montana, Mr. Pray. This matter could not be ruled on at the time because there were quite a number of statutes and sections of statutes that had to be examined in order to ascertain the foundation upon which the amendment was supposed to rest. The first clause in the amendment provides for a survey of the lands of the Tongue River and Cheyenne River Indian Reservations. Now of course to justify the appropriation for this purpose there must be some authority conferred somewhere by some law. The gentleman from Montana sent up the following statute as supposedly furnishing authority for this particular appropriation. Leaving out intermediate matter, the statute is as follows:

"That is all cases * * * the President of the United States, whenever in his opinion any reservation or any part thereof is advantageous for agricultural and grazing purposes, may cause such reservation to be surveyed."

This is a provision under which discretion is given to the President of the United States to have a survey made of any reservation. Under the amendment a department is authorized to make a survey of a particular reservation. The Chair is unable to see how authority that is given to the President to be exercised at his discretion furnishes authority for an amendment empowering a department to make a survey without regard to the wishes, judgment, or discretion of the President. Hence it seems to the Chair that the point of order to this portion of the amendment is certainly well taken. Under very familiar and abundant precedent, the point of order to the amendment being good as to a portion of the same, it is good as to the whole amendment. The point of order is therefore sustained.

1209. A statute providing that expenditures from a fund be made only on approval by Congress of certain estimates was held to authorize such expenditure on submission of the prescribed estimates.

It being provided by statute that funds derived from sale of timber on Indian lands be expended only after approval by Congress of estimates submitted by the Executive, submission of such estimates for approval was held to authorize corresponding appropriations from these funds.

On February 18, 1918,[4] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

Not to exceed $50,000 of the funds derived from the sale of timber from the Red Lake Indian Forest, Minn., under authority of the act of May 18, 1916 (39 Stats., p. 137), may be expended

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[1] Third session Sixty-second Congress, Record, p. 1193.

[2] Edward W. Saunders, of Virginia, Chairman.

[3] Record, p. 1175.

[4] Second session Sixty-fifth Congress, Record, p. 2274.

by the Secretary of the Interior in the logging, booming, towing, and manufacturing of timber from burned-over areas at the Red Lake Agency sawmill and in the reimbursement from the said timber receipts of the amounts expended from other Indian tribal funds in the prosecution of such work.

Mr. Philip P. Campbell, of Kansas, having raised a question of order as to authorization, the Chairman [1] said:

The Chair would like to call attention to this language:

"After the payment of all expenses connected with the administration of these lands as herein provided, the net proceeds therefrom shall be covered into the Treasury of the United States to the credit of the Red Lake Indians."

That does not have to be appropriated by Congress, and then it says:

"Expenditures from the principal shall be made only after the approval by Congress of estimates submitted by the said Secretary."

This seems to come within that provision, Congress having reserved to itself the right to state how the principal shall be used. The gentleman concedes that estimates have been sent in for this item. The point of order is overruled.

1210. An appropriation for suppression of liquor traffic among Indians was held to be authorized by law.

On January 15, 1921,[2] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

For the suppression of the traffic in intoxicating liquors among Indians, $20,000.

Mr. Homer P. Snyder, of New York, made the point of order that there was no authority of law for the item.

The Chairman [3] ruled:

The point of order is on the basis that there is no authority of law for this item to be carried on an appropriation bill. It has been cited that similar items have been carried in past appropriation bills, that some of those items have been objected to on a point of order and at other times had not been objected to, but the Chair finds that the authority herein exercised is found in Thirty-fourth Statutes at Large, page 1017, and Thirty-seventh Statutes at Large, page 519, which gives or confers authority upon the chief special officer for the suppression of liquor traffic among the Indians and duly authorized officers working under his supervision whose appointments are made or affirmed by the Commissioner of Indian Affairs and the Secretary of the Interior. The authority seems to be specifically granted here. Therefore the Chair overrules the point of order.

1211. An appropriation for expenses incurred in suits to determine the rights of Indians was held to be in order in an appropriation bill.

On January 15, 1921,[4] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Homer P. Snyder, of New York, raised the question of order that the following paragraph was not authorized by law:

For telegraph and telephone toll messages on business pertaining to the Indian Service sent and received by the Bureau of Indian Affairs at Washington, $7,500.

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[1] John N. Garner, of Texas, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 1466.

[3] Simeon D. Fess, of Ohio, Chairman.

[4] Third session Sixty-sixth Congress, Record, p. 1469.

The Chairman [1] held:

The only authority that the Chair has been able to find covering the subject will be found in Twenty-eighth Statutes at Large, page 305, and Thirty-first Statutes at Large, page 760, in which the Chair finds this language:

"All persons who are in whole or in part of Indian blood or descent who are entitled to any allotment of land under any law of Congress, or who claim to be so entitled to land under any allotment or under any grant made by Congress, or who claim to have been unlawfully denied or excluded from any allotment or any parcel of land to which they claim to be lawfully entitled, by virtue of any act of Congress, may commence and prosecute or defend any action, suit, or proceeding in relation to their right thereto in the proper circuit court of the United States; and said circuit courts are hereby given jurisdiction to try and determine any action, suit, or proceeding arising within their respective jurisdictions involving the right of any person, in whole or in part of Indian blood or descent, to any allotment of land"—

And so forth.

While it says nothing about hearings or nothing about paying witness fees, yet it would not be a strained interpretation to permit this authority to include the authority to pay witness fees, and the Chair is inclined to think that under that section this might be authorized. Therefore the Chair overrules the point of order.

1212. An appropriation for the suppression of the traffic in peyote was held to be in order on an appropriation bill.

On January 24, 1924,[2] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A point of order raised by Mr. James V. McClintic, of Oklahoma, was pending against the words "including peyote" appearing in the following paragraph under consideration by the Committee of the Whole:

For the suppression of the traffic in intoxicating liquors and deleterious drugs, including peyote, among Indians, $25,000.

After extended debate, the Chairman [3] ruled:

The Appropriations Committee of this House is not a legislative committee, and any appropriation that it may properly place in a supply bill must be authorized by existing law. In this case the committee has brought in an item which reads:

"For the suppression of the traffic in intoxicating liquors and deleterious drugs, including peyote, among Indians, $25,000."

The committee has produced the Snyder Act as the law upon which this proposed appropriation is founded. The Chair does not think that any other law has been cited, although it might have been urged, perhaps, that it is in order under the general law providing for the support and civilization of the Indians. The Snyder Act, however, has been cited as the basis for this appropriation. The question then arises as to whether or not the designation "deleterious drugs" in the act referred to includes peyote. It is undoubtedly proper for the committee to particularize and to state certain things for which it appropriates while omitting others, so long as the committee seeks to appropriate only for purposes within the law. The committee, therefore, might have been more specific in this case. It might have enumerated a number of intoxicating liquors and deleterious drugs. Having a right to enumerate all, it could name one. The Chair is therefore unable to escape the conclusion that the inclusion of this particular drug, if deleterious, is within the law.

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[1] Simeon D. Fess, of Ohio, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 1422.

[3] John Q. Tilson, of Connecticut, Chairman.

It was the first impression of the Chair, before going into the matter thoroughly, that this is not the proper tribunal to try out the question of fact, and that because the word "peyote" is not included in the law it should go out on a point of order; but, as has been shown by so many Members, the question finally resolves itself into whether the drug known as "peyote" is included within the term "deleterious drugs." It seems to the Chair that by an overwhelming array of authorities he is forced to the conclusion that it is a deleterious drug. It appears that the legislatures of several States have so regarded it; a number of Government officials have so declared it; Members of this House well qualified to speak on the subject give the same testimony; while numerous scientists and other experts have found themselves in agreement that peyote is a deleterious, harmful, and dangerous drug. If the Chair should hold that the reference to this drug must go out of the bill for the reason that it is not included within existing law, it might be regarded as equivalent to holding that it is not a deleterious drug. At any rate, this committee would then have no opportunity whatever to vote upon the question of fact thus raised. On the other hand, if held to be in order, the gentleman from Oklahoma may, by means of an amendment, move to strike out of the bill the language to which he objects. He will then get the expression of the committee upon the issue as to whether, upon its merit, it should stay in the bill or go out. The Chair is irresistibly drawn to the conclusion that the committee has the right under existing law to bring in a provision making an appropriation for the purpose indicated. The Chair, therefore, overrules the point of order.

1213. An appropriation for support and education of Indian pupils at Government schools was held to be in order on an appropriation bill.

On January 20, 1921,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Joseph G. Cannon, of Illinois, raised a question of order against this paragraph:

For support and education of 200 Indian pupils at the Indian school at Cherokee, N.C., including pay of superintendent, $40,000; for general repairs and improvements, $10,000; in all, $50,000.

Mr. Charles D. Carter, of Oklahoma, cited the following statute[2] as authorization for the appropriation:

The President may in every case where he shall judge improvement in the habits and conditions of such Indians practicable, and that the means of instruction can be introduced with their own consent, employ capable persons of good moral character to instruct them in the mode of agriculture suited to their station, and for the teaching of their children in reading, writing, and arithmetic, and performing such other duties as may be enjoined, according to such instructions and rules as the President may make and prescribe for the regulation of their conduct in the discharge of their duties.

The Chairman[3] decided:

The Chair thinks that under the legislation cited by the gentleman from Oklahoma a reasonably broad construction of it would authorize expenditures for the support and education of the Indians, and therefore overrules the point of order.

1214. An appropriation for telegraph and telephone tolls on business pertaining to the Indian Service was held to be in order on an appropriation bill.

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[1] Third session Sixty-sixth Congress, Record, p. 1705.

[2] Rev. Stat., sec. 2071.

[3] Simeon D. Fess, of Ohio, Chairman.

On January 15, 1921,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

For telegraph and telephone toll messages on business pertaining to the Indian Service sent and received by the Bureau of Indian Affairs at Washington, $7,500.

Mr. Homer P. Snyder, of New York, made the point of order that there was no authority for the provision.

The Chairman[2] said:

The Chair recognized the point of order involves two or three quite delicate discriminations. The mere fact that an item has been carried from year to year without authorization is no basis for its continuance from year to year. The new committee, the large committee known as the Appropriations Committee, would quite naturally include matters of legislation that have been reported in this bill in the past from the other committee, the Indian Affairs Committee, but the integrity of the functions of the other committees must be preserved. The fact that a matter has not been specifically mentioned as authority, although a strong inference goes with it that it would have to be exercised, has a danger in it that if you open the door to that sort of construction it would be difficult to limit it hereafter in any item that would be put upon the same basis. These three items make this a very delicate point to decide. Now, the Chair is of the opinion that in a case like this where the item referred to is for telegraph and telephone, which have come to be essential for administration, and were not included in the original authorization because at that time there was no such thing as a telephone and telegraph, the Chair is of the opinion that the inference here is strong enough that it will not strain the other items that the Chair has ruled against, and therefore the Chair will overrule this point of order.

1215. Mere statutory reference to an office is not sufficient authorization to warrant an appropriation for pay of incumbent.

A summary of authorizations of appropriations for the Indian Service.[3]

An appropriation for pay of Indian police was held to be unauthorized by law.[4]

On January 15, 1921,[5] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

For pay of Indian police, including chiefs of police at not to exceed $50 per month each and privates at not to exceed $30 per month each, to be employed in maintaining order, for purchase of equipments and supplies and, for rations for policemen at nonration agencies, $150,000.

Mr. Homer P. Snyder, of New York, made the point of order that there was no authority for the expenditure.

In discussing the point of order, Mr. Frank W. Mondell, of Wyoming, said:

I do not know that there is anywhere in the Statute a provision for the appointment of Indian police, but Indian police have been appointed and appropriated for since the very beginning of our management of Indian affairs. They are an essential part of the organization necessary to enable the Commissioner of Indian Affairs to conduct his office and perform the duties laid upon him, and the law has specifically recognized this particular class of employees repeatedly.

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[1] Third session Sixty-sixth Congress, Record, p. 1468.

[2] Simeon D. Fess, of Ohio, Chairman.

[3] See also 41 Stat. L., p. 208.

[4] Now authorized by U.S. Code, 25 U.S.C. 13.

[5] Third session Sixty-sixth Congress, Record, p. 1472.

For instance, in the act of March 3, 1877, page 35, of volume I of the laws, entitled "Indian Affairs, Laws, and Treaties," is this language:

"And hereafter in the employment of Indian police, or any other employees in the public service among any of the Indian tribes or bands affected by this act, and where Indians can perform the duties required, those Indians who have availed themselves of the provisions of this act and become citizens of the United States shall be preferred."

That is a recognition of the employment of Indian police and a provision giving preference to Indians in such employment.

And again, Twenty-fourth Statutes at Large, 464:

"That immediately upon and after the passage of this act any Indian committing against the person of any Indian policeman appointed under the laws of the United States, or any Indian United States deputy marshal while lawfully engaged in the execution of any United States process"—

And so forth, shall be punished. It is not necessary for me to read the balance of that.

Then in Twenty-fifth Statutes, 178, page 37 of the volume I have referred to, is this provision:

"That any Indian hereafter committing against the person of any Indian agent or policeman appointed under the laws of the United States, or against any Indian United States deputy marshal, posse comitatus, or guard, while lawfully engaged in the execution of any of the United States process, or lawfully engaged in other duty imposed upon such agent, policemen, deputy marshal, posse comitatus, or guard, by the laws of the United States, any of the following crimes"—

Then follows a recitation of certain crimes and a provision for their punishment.

These are recognitions by the statute of this particular class of employees of the Indian Service, and legislation in at least three different periods for their protection, recognizing them and making special provision for preferences with regard to them.

In reply, Mr. Charles D. Carter, of Oklahoma, submitted:

Will the Chair hear me a moment on the point of order? As to the advisability of treating the situation in which the House finds itself with reference to this measure in this or another way I will not at this time say, but I should like to say that I feel sure the Chair will agree that authorization by implication must be much stronger than any language that has been presented to the Chair. As a matter of fact, certain things are authorized by law, and others are not, with reference to the Indian Service as well as with reference to other branches of the Government. They are provided in different ways—quite generally in general legislation, but other provisions are made specifically in different treaties and different acts with reference to particular tribes.

Now, if the Chair will refer to chapter 1, title 28, sections 2039 to 2072, of the Revised Statutes of the United States, he will find there the general authorization for the different offices and activities of the Bureau of Indian Affairs. If the Chair will bear with me for just a moment, I will be glad to read into the Record a list of those authorized by that general enactment: Board of Indian Commissioners, secretary to the commissioners, Indian inspectors, superintendents, temporary clerks for superintendents, Indian agents, sub-Indian agents, special agents and commissioners, interpreters, blacksmiths, and teachers in agriculture and literary branches. No police are provided for, and evidently the provision against which the gentleman from New York has made a point of order is not in harmony with the rules of the House.

The Chairman [1] held:

The only reference to Indian police that the Chair can find is in the statute referred to by the gentleman from Wyoming, Mr. Mondell. The Chair is constrained to think that a mere reference to an office would not be sufficient to establish the authorization and the statutes referred to, enumerating officers that are appointed under authority of law, not including the office of policeman, lead the Chair to sustain the point of order.

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[1] Simeon D. Fess, of Ohio, Chairman.

1216. An authorization of law for appropriations should be construed strictly and any legitimate doubt as to authority for an appropriation should be resolved in the negative.

Authorization for enlargement, extension, improvement, and repair of buildings and grounds was held not to authorize a new building.

The erection of a new dormitory building to replace an old one was held not to be in continuation of public work already in progress.

On February 14, 1922,[1] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. Willis C. Hawley, of Oregon, offered an amendment providing an appropriation of $60,000 for a boys' dormitory at the Indian school, Salem, Oreg.

Mr. Charles D. Carter, of Oklahoma, having made the point of order that the amendment was unauthorized, Mr. Hawley explained:

Mr. Chairman, this amount was submitted in the estimates that came to the Committee on Appropriations in the Budget estimates. The purpose of this $60,000 is to replace an old wooden building, constructed some 35 or 40 years ago. It has been used for a boys' dormitory, I think, during all that period. Being made of wood, the foundation has decayed, and the sills of the building have rotted away. They have in part been replaced from time to time, but it has reached such a point of deterioration now that the supports of the building are so far impaired as to make it a dangerous structure.

The Chairman[2] ruled:

The Chair is ready to rule. In passing on this point of order two things must be kept in mind. First, the words of this act of November 2, 1921, must be given their fair and ordinary interpretation; and, second, it seems to the Chair that the rule doubtless is that a strict construction should be given to every authority that is contained in any act of this kind. In other words, if there is doubt about the authority it ought not to be construed to be an authorization. The section of the act of November 2, 1921, involved in the point of order reads as follows:

"For the enlargement, extension, improvement, and repair of the buildings and grounds of existing plants and projects."

The amendment offered is for a boys' dormitory, $60,000. This is evidently a new building. It does not come under the language of the act of November 2, 1921, because it is not an enlargement, an extension, improvement, or a repair of an existing building, but is a new building entirely. The language of the act says "the enlargement, extension, improvement, or repair" of an existing building. Under that language it must be manifest that extension or additions can be made to an existing building, but no authority is there given for the erection of a new building.

The remainder of the language of this section of the act of November 2, 1921, provides for the enlargement, extension, and improvement of grounds of existing plants and projects. A new building would not certainly be within the meaning of the language "improvement of grounds." There are some decisions along similar lines. For instance, in Hinds' Precedents, in volume 4, pages 503 and 504, several similar cases are given. The erection of a laboratory building for the Department of Agriculture was held not to be a continuation of a public work already in progress. The purchase of a site and the erection of a building for the Weather Bureau not being authorized by prior legislation an appropriation therefor is not in order on an agricultural appropriation bill as the continuation of an existing public work. The construction of barracks at the navy yard was held not to be a continuation of a public work. While these are not exactly on all fours with the present question, they are along a similar line and are precedents favorable to the position taken by the Chair. The point of order is sustained and the Clerk will read.

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[1] Second session Sixty-seventh Congress, Record, p. 2578.

[2] William J. Graham, of Illinois, Chairman.

1217. An appropriation for payment of damage to lands and crops incurred in condemning right of way for irrigation projects was held to be authorized by law.

On February 16, 1922,[1] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A point of order raised by Mr. Joseph Walsh, of Massachusetts, was pending on the following provisos in a paragraph making appropriation for an irrigation and drainage system:

Provided that the entire cost of said irrigation and drainage system shall be reimbursed to the United States under the conditions and terms of the act of May 18, 1916: *Provided further,* That the funds hereby appropriated shall be available for the reimbursement of Indian and white landowners for improvements and crops destroyed by the Government in connection with the construction of irrigation canals and drains of this project.

After debate,[2] the Chairman ruled:

The Chair is ready to rule on this matter. The proviso which is brought in question by the point of order is, "That the funds hereby appropriated shall be available for the reimbursement of Indian and white landowners for improvements and crops destroyed by the Government in connection with the construction of irrigation canals and drains of this project."

It is stated that this is legislation, and that there is no authority for any such appropriation in existing law.

The act of November 2, 1921, in one clause gives authority to make appropriations for the following purposes:

"For extension, improvement, operation and maintenance of existing Indian irrigation systems, and for development of water supply."

Here is a plain authority to appropriate any sums of money which may be necessary for the extension, improvement, operation, and maintenance of existing Indian irrigation systems. It therefore becomes necessary to inquire somewhat into the powers that were given originally in forming the irrigation project mentioned in this section, which is, as the Chair understands it, a part of the Yakima Indian Reservation, or what was originally the Yakima Reservation.

Attention has been called to the act of June 17, 1902, which is an act appropriating the receipts from the sale of certain public lands to the construction of irrigation works for the reclamation of arid lands, including lands within the State of Washington. That act plainly gives to the Department of the Interior the right to condemn, the right of eminent domain, with all the incidents attached to that general right, all of which are familiar to the Members of the House. Whether the project is built under the operation of that act or not is in some doubt, but plainly the right which was given in that statute has been construed by the Interior Department at least as a right which continues in all these projects, and the Chair is informed that the Interior Department is now exercising that right, has been for some years, and does it in almost every reclamation project which comes up. However, be that as it may, the Chair is of the opinion that section 4 of the act of December 21, 1904, is amply sufficient to authorize the appropriation. That act provides in section 4 thereof as follows:

"SEC. 4. That the proceeds arising from the sale and disposition of the lands aforesaid, including the sums paid for mineral lands, exclusive of the customary fees and commissions, shall, after deducting the expenses incurred from time to time in connection with the appraisements and sale, be deposited in the Treasury of the United States to the credit of the Indians belonging and having tribal rights on the Yakima Reservation, and shall be expended for their benefit under the direction of the Secretary of the Interior in the construction, completion, and maintenance of irrigation ditches, purchase of wagons, horses, farm implements, material for

[1] Second session Sixty-seventh Congress, Record, p. 2662.

[2] William J. Graham, of Illinois, Chairman.

houses, and other necessary and useful articles, as may be deemed best to promote their welfare and aid them in the adoption of civilized pursuits and in improving and building homes for themselves on their allotments: *Provided,* That a portion of the proceeds may be paid to the Indians in cash per capita, share and share alike, if in the opinion of the Secretary of the Interior such payments will further tend to improve the condition and advance the progress of said Indians, but not otherwise."

The Chair is absolutely unable to understand how an irrigation system can be built without the acquisition of a right of way. If the acquisition of the right of way is incident to the building of an irrigation system, it follows as a natural consequence that the reimbursement of people who have lands destroyed in the taking of the right of way must necessarily be a part of the general power for building and constructing that irrigation system. If that is true—and the Chair has not much doubt of it in his own mind, although the matter, I believe, has never been determined before by any ruling in this House—the Chair believes that the authority exists in the law for paying such damages and that under the general authorization contained in the act of November 2, 1921, this appropriation would be in order.

However, the Chair may say that he can see no reason why the proviso is necessary. This may not be necessary in the decision of this particular point, but if the Chair is right about it the general fund of $250,000 embraced in the preceding clause of the section could be properly used for the very purpose that is set forth within this proviso. But the Chair is familiar with the fact that frequently these things are carried in bills because they have been carried in preceding bills, and that fact in itself does not make the provision bad even through the expenditure may be authorized by the preceding portion of the section.

The point of order is overruled.

1218. An appropriation for the construction of national-park and national-monument roads including necessary bridges was held to be sanctioned by law.

On February 16, 1932,[1] the Committee of the Whole House on the state of the Union was considering the Interior Department appropriation bill when the Clerk read the paragraph containing the following proviso:

Provided further, That not to exceed $1,200,000 shall be available for national-park and national-monument approach roads, inclusive of necessary bridges.

Mr. Edward W. Goss, of Connecticut, objected that there was no authority of law for the provision.

The Chairman[2] ruled:

Section 8, title 16, United States Code, provides by law enacted April 9, 1924, that the Secretary of the Interior, in his administration of the National Park Service, is authorized to construct, reconstruct, and improve roads and trails, inclusive of necessary bridges in the national parks and monuments, under the jurisdiction of the Department of the Interior.

There being authority in law for the appropriation, the point of order is overruled.

1219. Authorization to appropriate for relief of distress among Indians in general was held to warrant an appropriation for certain designated Indians.

On February 16, 1922,[3] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union when the Clerk read the following paragraph:

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[1] First session Seventy-second Congress, Record, p. 4087.

[2] John J. O'Connor, of New York, Chairman.

[3] Second session Sixty-seventh Congress, Record, p. 2665.

For the purchase of subsistence supplies in relieving cases of actual distress and suffering among those needy St. Croix Indians of Wisconsin whose cases are referred to in report of January 30, 1915, transmitted by the Secretary of the Interior to the House of Representatives March 3, 1915, pursuant to the provisions of the act of Congress of August 1, 1914 (38 Stat. L., pp. 582–605), and printed as House Document No. 1663, Sixty-third Congress, third session, $1,000.

Mr. Joseph Walsh, of Massachusetts, reserved a point of order, questioning as to whether there was authorization for the appropriation.

The Chairman [1] held:

This seems to be an appropriation of $1,000 for a specific purpose, namely, the relief of needy and distressed St. Croix Indians, of Wisconsin. When the Chair first had his attention called to this he was of the opinion that the authority for the appropriation would be found in the statute referred to in the section. However, on a closer reading of the section, it is evident that this is not the meaning of the section. One thousand dollars is appropriated for the relief of certain Indians. What Indians The Indians whose cases are referred to in a certain report of January 30, 1915, mentioned in the section. On reference to the report, which has been handed the Chair by the chairman of the committee, the Chair finds a list entitled, "A final roll of the St. Croix Chippewa Indians of Wisconsin," giving the names of the individuals. The language in the latter part of this section, in the opinion of the Chair, is identifying language—that is, it identifies certain Indians who are to be the recipients of this gratuity from the Government.

If that is true, then surely the authority for making this appropriation exists in the section of the act of November 2, 1921, which provides "for relief of distress and conservation of health." The Chair is of opinion that the point of order is not well taken, and it will be overruled.

1220. Authorization for an appropriation to be dispensed by the Executive was held not to warrant an appropriation to be jointly dispensed by the Executive and State officials.

On December 28, 1922,[2] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read a paragraph providing for the establishment of Indian schools.

Mr. Bill G. Lowrey, of Mississippi, offered an amendment providing for joint control of expenditures for that purpose by the Secretary of the Interior and the public schools of the State of Mississippi.

Mr. Louis C. Cramton, of Michigan, made the point of order that the amendment was unauthorized.

The Chairman [3] ruled:

The amendment offered by the gentleman from Mississippi reads:

"Under the direction of the Secretary of the Interior and in connection with and under joint control of the public schools of the State of Mississippi."

The point of order is made that this is legislation not authorized by existing law. The provision of the law under which it is claimed that this amendment may be authorized is the act of November 2, 1921. The provision of that law is that the Bureau of Indian Affairs, under the direction of the Secretary of the Interior, shall direct and supervise the expenditure of such money as Congress may from time to time appropriate for the benefit and care of the Indians through out the United States for the following purposes: "* * * General civilization, including education."

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[1] William J. Graham, of Illinois, Chairman.

[2] Fourth session Sixty-seventh Congress, Record, p. 1035.

[3] Horace M. Towner, of Iowa, Chairman.

The members of the committee will understand that all of these general provisions must be placed under the control of the Bureau of Indian Affairs, under the supervision of the Secretary of the Interior, under this law. There is no provision made for a division of control. It would be perfectly within the power of the Secretary of the Interior to direct that these children might be educated in the public schools. There would be no objection whatever to a provision in this law that if they were educated in the public schools it might be paid for out of the general fund or out of tribal funds. There would be no objection in either case. Still the disposition and control of the funds would be under the Secretary of the Interior. But this proposes to place the control partially at least under the school authorities of the State of Mississippi. That is not authorized by existing law. For that reason the point of order is sustained.

1221. Appropriations for the improvement of an Indian reservation were held to be authorized if for construction of roads within the reservation, and unauthorized if for construction of roads beyond the reservation.

On January 25, 1924,[1] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. W. H. Sproul, of Kansas, offered this amendment:

For the construction of 3 miles of concrete road from the Chilocco School or campus to the Kansas State line, connecting with the Arkansas City, Kans., public road, $30,000."

A point of order made by Mr. Louis C. Cramton, of Michigan, that the expenditure was unauthorized by law, being conceded, Mr. Sproul reintroduced the amendment in this form:

For the purchase of material for the construction of 3 miles of concrete road from the Chilocco Indian School to the Kansas State line, all upon Indian land, $30,000."

A similar point of order made by Mr. Cramton against the amendment as modified was overruled by the Chairman.[2]

1222. An appropriation for examination of mineral resources and products of the national domain was held to be authorized by law.

On May 4, 1908,[3] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. James C. Needham, of California, proposed this amendment:

For the further examination of the mineral resources and products of the national domain, $200,000, to be immediately available.

Mr. James A. Tawney, of Minnesota, made the point of order against the amendment.

The Chairman[4] ruled:

The Chair is ready to rule on the proposition. The organic act creating the Geological Survey contains this language:

"Provided, That this officer shall have the direction of the Geological Survey, the classification of the public lands, and the examination of the geological structure, mineral resources, and products of the national domain."

This amendment provides for a further examination of the mineral resources and products of the national domain, bringing it squarely within the statutory authorization, as the Chair

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[1] First session Sixty-eighth Congress, Record, p. 1456.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] First session Sixtieth Congress, Record, p. 5675.

[4] James E. Watson, of Indiana, Chairman.

thinks, and being exactly in line with what was held at least the last two years on this same subject the Chair thinks that the amendment is not subject to the point of order, and therefore the Chair overrules the point of order.

1223. Authorization for transfer of functions of one bureau to another is authorization for similar transfer of equipment essential to the exercise of such functions.

The act creating the Bureau of Mines and transferring to it from the Geological Survey supervision of certain investigations is sufficient authorization for transfer from the Geological Survey to the new bureau of laboratories, equipment and furniture used in connection with such investigations.

On May 31, 1910,[1] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Albert Douglas, of Ohio, proposed this amendment:

For dismantling and removing chemical laboratories, equipment, and office furniture from the office of the Geological Survey to the office of the Bureau of Mines in Washington, D. C., and reinstalling and equipping the laboratories in the office of the Bureau of Mines with fixtures, including laboratory plumbing, sinks, hoods, coal sampling, and crushing machinery, $14,700.

Mr. John J. Fitzgerald, of New York, made the point of order that the proposal was not authorized by law.

The Chairman[2] said:

The Chair is prepared to rule. Section 4 of the act creating the Bureau of Mines and Mining authorizes the Secretary of the Interior to transfer to the Bureau of Mines, from the United States Geological Survey, the supervision of certain investigations, and provides that such investigations shall hereafter be within the province of the Bureau of Mines, and such experts, employees, property, and equipment as are now employed or used by the Geological Survey in connection with the subject herewith transferred to the Bureau of Mines are directed to be transferred to said bureau.

The amendment offered by the gentleman from Ohio makes an appropriation for dismantling and removing the chemical apparatus and equipment and office furniture, and so forth, from the Geological Survey to the Bureau of Mines and Mining, and provides for reinstalling the equipment of the laboratory and office in the Bureau of Mines.

It seems to the Chair that a fair construction of the provision of section 4 authorizes an appropriation for the purpose of transferring the laboratories now in the Geological Survey which relate to the investigations authorized to be transferred.

If the amendment provided for the dismantling and the removing of all laboratories in the Geological Survey, a different question would arise, but the Chair must presume that in the expenditure of the appropriation the expenditure will be made in accordance with the law authorizing the transfer of these laboratories to be used in the investigations which are to be transferred. The Chair therefore overrules the point of order.

1224. A statute authorizing certain bureau work in the United States was held not to authorize an extension of that work to the Territory of Alaska.

The organic law creating the Bureau of Mines, while general in character, was construed as applying to the United States only, and authoriza-

[1] Second session Sixty-first Congress, Record, p. 7174.

[2] James R. Mann, of Illinois, Chairman.

tion conferred to investigate structural materials and fuels is limited to those within the States and does not extend to those of Alaska.

While an amendment offered as a new paragraph must be germane to that portion of the bill to which offered, its relative order with other paragraphs is not otherwise prescribed.

On May 31, 1910,[1] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. Albert Douglas, of Ohio, offered an amendment including the following:

BUREAU OF MINES.

For the general expenses of the Bureau of Mines, including the pay of the director and the necessary assistants, clerks, and other employees in the office at Washington, D. C., and in the field, and for every other expense requisite for and incident to the general work of the Bureau of Mines in Washington, D. C., and in the field, to be expended under the direction and at the discretion of the Secretary of the Interior, $54,000.

For dismantling and removing chemical laboratories, equipment, and office furniture from the office of the Geological Survey to the office of the Bureau of Mines in Washington, D. C., and reinstalling and equipping the laboratories in the office of the Bureau of Mines with fixtures, including laboratory plumbing, sinks, hoods, coal sampling and crushing machinery, etc., $14,700.

For rent of offices in the city of Washington, and for furnishing the same, together with such books, records, stationery, and appliances as the Secretary of the Interior may provide, $15,000.

For the analyzing, testing, and treatment of coals, lignites, ores, and other mineral fuel substances, $100,000.

For the investigation as to the causes of mine explosions, methods of mining, especially in relation to the safety of miners, the appliances best adapted to prevent accidents, the possible improvement of conditions under which mining operations are carried on, the use of explosives and electricity, the prevention of accidents, and other inquiries and technologic investigations pertinent to the mining industry, $200,000.

For making public report of the work, investigations, and information obtained by said Bureau of Mines, with the recommendations of such bureau, $5,000.

For the investigation of structural materials, $150.000.

For salaries of two mine inspectors, authorized by the act approved March 3, 1891, for the protection of the lives of miners in the Territories, at $2,000 per annum each, $4,000; and said inspectors are hereby authorized to inspect coal and other mines in the District of Alaska to which District the provisions of said act are hereby extended and made applicable.

For per diem, subject to such rules and regulations as the Secretary of the Interior may prescribe, in lieu of subsistence at a rate not exceeding $3 per day each while absent from their homes on duty, and for actual necessary traveling expenses of said inspectors, including necessary sleepingcar fares, $3,350.

In all, for the Bureau of Mines, $546,050.

Mr. James A. Tawney, of Minnesota, and Mr. John J. Fitzgerald, of New York, made the point of order that the appropriation was unauthorized by law.

After extended debate, the Chairman[2] ruled:

The gentleman from Ohio offers an amendment, which has been reported, to come in immediately preceding the heading "United States Geological Survey," and the amendment offered by the gentleman from Ohio is headed "Bureau of Mines."

The point of order is first made that the amendment is not in order, being offered at this place in the bill, on the ground that it is not germane to the provisions of the bill at this point.

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[1] Second session Sixty-first Congress, Record, p. 7164.

[2] James R. Mann, of Illinois, Chairman.

The bill is divided into different parts, relating to a certain extent, at least, to the different departments of the Government. Beginning on page 92 of the bill, under the heading, in large capital letters, reading "Under the Department of the Interior," is a subheading "Public buildings, "in capital letters. On page 94 is another subheading in capital letters, "Public lands service." On page 99 is another heading in capital letters, "Surveying the public lands," and on page 101 is a heading in capital letters, "United States Geological Survey."

All of these branches of the service are under the heading "Department of the Interior," and are all under the Department of the Interior. The gentleman from Minnesota has insisted that the items under "Public lands service" and those under "United States Geological Survey" relate to surveying the public domain, but it seems to the Chair that, even if the Chair were captious about it, that there two branches of the service are under different bureaus or divisions of the Department of the Interior which are in no way closely related, except as other bureaus may be related, and it seems to the Chair wholly for the Committee of the Whole to determine whether it prefers the provision in one place or in another part of the bill, the amendment being germane to these provisions of the bill under consideration. This item is offered as an amendment under the head of "Bureau of Mines," to come in between the items "Public lands service" and "United States Geological Survey," all three being in the same department. That part of the point of order the Chair overrules.

It is then said that the items in the amendment if authorized at all are authorized by an act approved May 16, 1910, entitled, "An act to establish in the Department of the Interior a bureau of mines."

Section 6 of that act provides that

"This act shall take effect and be in force on and after the 1st day of July, 1910."

It has been suggested, at least in a way, that the act not being in force, it was not a law which would authorize an appropriation in accordance with clause 2 of Rule XXI. Of course, in the opinion of the Chair this act is a law, duly enacted by Congress and approved by the President. By one of its own provisions it does not take effect until July 1, 1910, but if that provision were not in the law, it would take effect from the date of its passage, and if it is not in effect, then section 6 is not in effect, which prevents the act from taking effect, so it is quite patent that the law is suspended by force of its own provisions from active effect. If it were proposed to make an appropriation to be expended prior to July 1, 1910, it would be inimical to the rule, because this act is not in effect; but this bill itself would authorize the appropriation under the amendment only from the 1st of July, 1910.

One of the provisions of the amendment is:

"For salaries of two mine inspectors, authorized by the act approved March 3, 1891, for the protection of lives of miners in the Territories at $2,000 per annum each, $4,000; and said inspectors are hereby authorized to inspect coal and other mines in the District of Alaska, to which District the provisions of said act are hereby extended and made applicable."

As the Chair understands, that provision is not in the current appropriation law, and is a new piece of legislation and clearly subject to the point of order. The present bill, of course, is not yet law. One item is:

"For per diem, subject to such rules and regulations as the Secretary of the Interior may prescribe, in lieu of subsistence."

The Chair is not perfectly clear as to whether that would be inimical to the rule as a provision of legislation, it clearly being legislation, but possibly the Secretary without the provision "subject to such rules and regulations as the Secretary of the Interior may prescribe" would necessarily have control of the subject. Those items, of course, are not of great importance.

The law creating the Bureau of Mines, in section 2, is very general in character, and provides:

"SEC. 2. That it shall be the province and duty of said bureau and its director, under the direction of the Secretary of the Interior, to make diligent investigation of the methods of mining, especially in relation to the safety of miners, and the appliances best adapted to prevent accidents, the possible improvement of conditions under which mining operations are carried on, the treatment of ores and other mineral substances, the use of explosives and electricity, the prevention of accidents, and other inquiries and technologic investigations pertinent to said

industries, and from time to time make such public reports of the work, investigations, and information obtained as the Secretary of said department may direct, with the recommendations of such bureau."

It is clear that the special provisions of section 2, authorizing the treatment of ores and other mineral substances and other inquiries and technologic investigations pertinent to said industries, authorize an appropriation for almost, if not all, purposes connected with mines or minerals. It is true that as the bill was introduced in the House and passed the House it authorized the department to "foster, promote, and develop the mining industries of the United States," and if that expression were still in the law the word "industries," as used in the act as now printed, would clearly refer to the mining industries of the United States.

But the expression "foster, promote, and develop the mining industries of the United States" was stricken out by the Senate amendment, agreed to in conference, and the Chair is required to read the act as it is now the law. So it is rather difficult for the Chair to say just what the word "industries" does refer to here, but apparently it refers to industries as to the methods of mining, safety of miners, appliances best adapted to preventing accident, possible improvement of conditions under which mining operations are carried on, the treatment of ores, and other mineral substances, the use of explosives and electricity, and is very broad in its character.

But the attention of the Chair is also asked to another section of the bill, and the Chair must construe the law in all of its parts as related to each other. Section 4 of the law provides:

"That the Secretary of the Interior is hereby authorized to transfer to the Bureau of Mines from the United States Geological Survey the supervision of the investigations of structural materials and the analyzing and testing of coals, lignites, and other mineral fuel substances and the investigation as to the causes of mine explosions; and the appropriations made for such investigation may be expended under the supervision of the Director of the Bureau of Mines in manner as if the same were so directed in the appropriations acts."

If the language of section 4 stopped there, the present occupant of the chair might be inclined to say that the provisions of section 2, authorizing the treatment of ores and other mineral substances and other inquiries and technologic investigations pertinent to said industries, were broad enough to cover the language of this amendment, treating that part of section 4 as a mere transfer of what exists in the Geological Survey; but section 4 goes on to say:

"And such investigations shall hereafter be within the province of the Bureau of Mines, and shall cease and determine under the organization of the United States Geological Survey."

The Chair can not presume that the Congress in writing this language intended to insert provisions in it as mere surplusage, but where there is a general provision of the law followed by a particular provision of the law relating to a particular subject it is a universal rule that the particular provision governs, so that the Chair is obliged to construe section 4 as giving control as to these investigations which are authorized to be transferred from the Geological Survey to the Bureau of Mines and Mining. Here is where the law authorizes these investigations to be carried on in the Bureau of Mines, and it says:

"And such investigations shall hereafter be within the province of the Bureau of Mines."

Now, what investigations are referred to? The investigations that are now carried on by the United States Geological Survey, supervision of which is transferred by section 4 to the new Bureau of Mines and Mining. What are the investigations now being carried on by the Geological Survey as to the matters referred to in section 4? The investigation of structural materials and the analyzing and testing of coals, lignites, and other mineral fuel substances. The current law provides:

"For the continuation of the investigations of structural materials, both belonging to and for the use of the United States, such as stone, clay, cement"—

And so forth; and

"For the continuation of the analyzing and testing of the coals, lignites, and other mineral fuel substances belonging to or for the use of the United States in order to determine their fuel value"—

And so forth.

These are the investigations authorized by section 4 to be transferred from the Geological Survey to the Bureau of Mines and Mining and, as provided in section 4, "such investigations shall hereafter be within the province of the Bureau of Mines." It seems to the Chair that that is the controlling feature as to what investigations in this direction shall be carried on by the Bureau of Mines and Mining, the same class of investigations now carried on by the Geological Survey or authorized to be carried on by the Geological Survey. As the Chair understands, and the Chair will be glad to have further information upon that subject, the Geological Survey is not authorized to carry on investigations on any broader scope than is authorized by the current sundry civil appropriation bill, making the appropriation.

In the opinion of the Chair an amendment is in order at this place in the bill; an amendment is in order at this time providing for the work authorized by the act creating the Bureau of Mines and Mining, but it is required to be confined to the scope authorized by that bill, which is as to structural materials; coals and lignites would be those belonging to or for the use of the United States. The provision of the amendment in reference to Alaska is clearly subject to the point of order, and, as the amendment is offered as one amendment, the Chair is compelled to sustain the point of order.

1225. An appropriation for the maintenance of a private educational institution unauthorized by law was held not to be in order on an appropriation bill.

Appropriations for the support of Howard University are not authorized by law.

On February 12, 1915,[1] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

HOWARD UNIVERSITY.

For maintenance, to be used in payment of part of the salaries of the officers, professors, teachers, and other regular employees of the university, ice and stationery, the balance of which shall be paid from donations and other sources, of which sum not less than $1,500 shall be used for normal instruction, $65,000.

Mr. Thomas U. Sisson, of Mississippi, made the point of order that this appropriation was not authorized by law.

After debate, the Chairman[2] ruled:

The gentleman from Mississippi makes a point of order against the appropriation in the bill for Howard University, on the ground that it is not authorized by law. Clause 2, Rule XXI, provides 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"—

And so forth.

The Chair called upon the chairman of the committee, Mr. Fitzgerald, to cite any authority of law for this appropriation, and he failed to do so. Section 3597 of Hinds' Precedents provides and that is a ruling by this House—that "those upholding items in an appropriation bill should have the burden of showing the law authorizing it." That is the unbroken precedent of this House.

Now, the gentleman from New York, Mr. Fitzgerald, stated that this appropriation had been made from year to year. That is true. But under the rulings of the House the fact that an appropriation has been made from year to year, if unauthorized by law, does not make it in order. I cite section 3588 of Hinds' Precedents, which reads as follows:

"An appropriation for an object in an annual appropriation bill makes law only for that year, and does not become 'existing law' to justify a continuation of the appropriation."

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[1] Third session Sixty-third Congress, Record, p. 3691.

[2] Charles R. Crisp, of Georgia, Chairman.

Following the rulings above cited and on account of the fact that there is no authority of law cited to authorize this appropriation, the Chair sustains the point of order, and the item is stricken from the bill.

1226. On January 29, 1924,[1] the Department of the Interior appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph providing for the maintenance of Howard University was read, as follows:

For maintenance, to be used in payment of part of the salaries of the officers, professors, teachers, and other regular employees of the university, ice, and stationery, the balance of which shall be paid from donations and other sources, of which sum not less than $2,200 shall be used for normal instruction, $125,000.

Mr. James F. Byrnes, of South Carolina, made the point of order that there was no authority of law for the appropriation.

The Chairman[2] held:

The same point of order has been made in previous years, and whenever made it has been decided uniformly in the same way that the present occupant of the chair must decide it. If the appropriation is not authorized by law—and it is conceded that it is not—then it is clearly subject to a point of order. The Chair therefore sustains the point of order.

1227. On December 6, 1924,[3] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read as follows:

HOWARD UNIVERSITY.

For maintenance, to be used in payment of part of the salaries of the officers, professors, teachers, and other regular employees of the university, ice, and stationery, the balance of which shall be paid from donations and other sources, of which sum not less than $2,200 shall be used for normal instruction, $125,000.

Mr. James F. Byrnes, of South Carolina, raised the question of authorization.

The Chairman[4] ruled:

The gentleman from South Carolina makes a point of order against the paragraph on the ground that it is an appropriation not authorized by law. Whenever a point of order has been made against an appropriation to this item the point of order has been sustained, and in this case the Chair is inclined to think that the point of order is well taken. The last time the point of order was decided was on January 29, 1924. The Chair sustained the point of order. The present occupant of the chair is in entire agreement with that position as to the merits and as to the point of order, and therefore the point of order is sustained.

The bill having been passed by the House, and by the Senate with amendments, was sent to conference and the conference report was called up in the House and agreed to on February 28, 1925.[5]

Among the Senate amendments remaining in disagreement was Senate amendment No. 50, providing:

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[1] First session Sixty-eighth Congress, Record, p. 1660.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] Second session Sixty-eighth Congress, Record, p. 245.

[4] Everett Sanders, of Indiana, Chairman.

[5] Record, p. 5054.

HOWARD UNIVERSITY.

For maintenance, to be used in payment of part of the salaries of the officers, professors, teachers, and other regular employees of the university, ice, and stationery, the balance of which shall be paid from donations and other sources, of which sum not less than $2,200 shall be used for normal instruction, $125,000;

For tools, material, salaries of instructors, and other necessary expenses of the department of manual arts, of which amount not to exceed $21,800 may be expended for personal services in the District of Columbia, $34,000;

Medical department: For part cost needed equipment, laboratory supplies, apparatus, and repair of laboratories and buildings, $9,000;

For material and apparatus for chemical, physical, biological, and natural history studies and use in laboratories of the science hall, including cases and shelving, $5,000;

For books, shelving, furniture, and fixtures for the libraries, $3,000;

For improvement of grounds and repairs of buildings, $30,000;

Fuel and light: For part payment for fuel and light, Freedmen's Hospital and Howard University, $15,000;

Total, Howard University, $221,000.

When this Senate amendment was reached Mr. Louis C. Cramton, of Michigan moved to recede and concur with an amendment adding the following:

For the construction of a building for the medical department, $370,000: *Provided,* That no part of the sum hereby appropriated shall be available until there is filed with the Secretary of the Interior a guaranty by the trustees of the university that a suitable equipment for such building will be provided at a cost of not less than $130,000 by subscription of alumni and other friends of the university.

Mr. Joseph W. Byrns, of Tennessee, made the point of order that the amendment to the Senate amendment was unauthorized by law and was not germane.

The Speaker [1] held:

It seems to the Chair that the first point of order made by the gentleman from South Carolina that this is legislation is, of course, true, but this is all legislation, and it has been put on by the Senate, and it seems to the Chair that makes anything germane to it in order. If there was only one item, the Chair might hold that it was not germane, but here are appropriations for a dozen different items, some of them for buildings or for repairs to the Howard University. The Chair thinks that would make this in order, and the Chair overrules the point of order.

1228. While requisite publications of bureaus are authorized by law a provision for a specified bureau publication was held not to be in order on an appropriation bill.

The fact that the Government is to be reimbursed for an unauthorized expenditure does not make it in order on an appropriation bill.

On January 5, 1921,[2] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the paragraph providing for expenditures from the reclamation fund was reached.

Mr. James R. Mann, of Illinois, reserved a point of order against the paragraph and said:

I notice that this paragraph proposes to provide specifically for the publication of the Reclamation Record. I apprehend that in view of the present law on the subject of publications all of the bureaus will seek to have specific provisions inserted in the appropriation bills for the

[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Third session Sixty-sixth Congress, Record, p. 1006.

publications issued by their bureaus; but is there any warrant of law for making appropriations for this specific purpose? I make the point of order against the language:

"Including a publication called the Reclamation Record."

There is no authority in the reclamation law—no express authority, at least—for the publication of this Reclamation Record.

Mr. James W. Good, of Iowa, submitted:

The Reclamation Record is a publication issued by the Reclamation Service, and the water users in the main subscribe for it, and they pay the subscription price. The money gets back into the fund. Now, unless there is authority to publish it they would have no right to publish it. In this case the publication is paid for out of the reclamation fund, not out of the Treasury, and the members of the water users' association subscribe for it and pay an amount at least equal to the cost of the publication.

After further debate, the Chairman [1] sustained the point of order.

1229. An appropriation for publication of the Reclamation Record was held to be unauthorized by law.

On February 16, 1922,[2] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the paragraph providing appropriations authorized by the reclamation law and including the following:

Including a publication called the Reclamation Record.

Mr. James R. Mann, of Illinois, raised a question of order on the authority of law for this item.

After debate, the Chairman [3] sustained the point of order.

1230. Appropriations for equipment and materials essential to the convenient and efficient conduct of public business by the House or Senate are in order on an appropriation bill.

The committee, overruling the Chairman, decided that an appropriation for packing boxes was authorized by law.

On February 9, 1922,[4] the legislative appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Thomas L. Blanton, of Texas, raised a question of order on an appropriation for the purchase of packing boxes for the use of the Senate, and referred to an instance in which a similar point of order was sustained in a preceding session.

Mr. James R. Mann, of Illinois, in discussing the point of order, said:

Mr. Chairman, this comes under the head of contingent expenses of the Senate. There is no specific authority of law providing postage stamps for the Secretary of the Senate or the Sergeant at Arms; no authority of law especially providing for fuel oil or cotton waste or advertising or purchasing of furniture or repair of furniture, and yet it would be ridiculous to say that because there is no specific authority of law for these things that under the title of contingent expenses they could not be allowed. The same is true of packing boxes.

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[1] Simeon D. Fess, of Ohio, Chairman.

[2] Second session Sixty-seventh Congress, Record, p. 2667.

[3] William J. Graham, of Illinois, Chairman.

[4] Second session Sixty-seventh Congress, Record, p. 2358.

The Chairman [1] ruled:

Under the ruling cited by the gentleman from Texas this item has been held out of order. While the present occupant of the chair, aside from that ruling, does not desire to so hold, yet in view of the ruling cited the Chair feels that he should follow the precedent established and sustain the point of order.

Whereupon Mr. Joseph Walsh, of Massachusetts, appealed from the decision of the Chair. The question being put, was decided in the negative, and the point of order was overruled.

1231. Appropriations for payment of expenses incurred in contested-election cases are in order on an appropriation bill when duly certified by Committee on Elections and not otherwise.

On June 4, 1924,[2] the second deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

For payment to Walter M. Chandler for expenses incurred as contestant in the contested-election case of Chandler *v.* Bloom, audited and recommended by the Committee on Elections No. 3, $2,000.

Mr. Thomas L. Blanton, of Texas, having raised the question of authorization, Mr. Martin B. Madden, of Illinois, said:

Mr. Chairman, these items are all authorized by law. The law provides that not to exceed $2,000 shall be paid to any person who has a contest when receipted bills are filed with the committee having charge of the contest. The chairman of the committee having charge of the contest has certified over his own signature that these bills are on file and receipted.

The Chairman [3] held:

The gentleman from Illinois states that all the provisions of the law relative to the action of the Committee on Elections have been complied with. The Chair must take the gentleman's word, and if that has been done this is authorized by the statute, and if authorized by statute it is a proper appropriation. The point of order is overruled.

Thereupon Mr. Blanton offered the following amendment:

At the end of the Madden amendment add the following: To pay E. W. Cole his expenses as contestant for a seat in the House of Representatives, $2,000.

Mr. Madden made the point of order that the appropriation proposed was without authority of law.

The Chairman ruled:

There is no certificate from the Committee on Elections No. 1, which indicates the accounts have been filed as provided by law, and hence the amendment is subject to a point of order. In view of the fact that the gentleman from Illinois has stated that the formalities of the law have not been complied with, the point of order is sustained.

1232. Statutory direction to establish a naval station was construed as authorizing the paving of streets and erection of warehouses as incidental thereto.

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[1] Horace M. Towner, of Iowa, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 10528.

[3] William J. Graham, of Illinois, Chairman.

On May 25, 1912,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was reached:

Naval Station, Pearl Harbor, Hawaii: Dry dock (limit of cost is hereby increased to $3,350,000), to complete, $1,050,000; water-front development, $100,000; street paving, $25,000; water system, $17,000; power distribution, mains and conduits, $75,000; metal and lumber storehouse, $25,000; paint and rigging loft, $25,000; pattern shop, $60,000; storehouses, $100,000; latrines, $10,000; railroad equipment, $45,000; floating crane, to complete, $210,000; in an, $1,742,000.

Mr. Samuel J. Tribble, of Georgia, made the point of order that the items for street paving and metal and lumber warehouses were not authorized by law.

Mr. Lemuel P. Padgett, of Tennessee, submitted:

Mr. Chairman, I do not think the point of order is well taken. The act establishing the naval station at Pearl Harbor provided:

"The Secretary of the Navy is hereby authorized and directed to establish a naval station at Pearl Harbor, Hawaii, on the site heretofore purchased for that purpose, and to erect thereat all the necessary machine shops, storehouses, coal sheds, and other necessary buildings."

So that Congress does not fix any limit, does not define the scope of such buildings as may be necessary. It is in the discretion of the Congress and, of course, is in order on an appropriation bill. Pearl Harbor is a new place, out on an island, but there is nothing there in the way of highways. This paving of streets is simply the making of roads, so that the heavy machinery and heavy guns can be hauled over the roads.

The Chairman,[2] after debate, overruled the point of order.

1233. When the question of authorization is raised against a paragraph in an appropriation bill it is incumbent upon the committee reporting the bill to cite the law sanctioning the appropriation.

An appropriation for advertisements for naval recruits was held to be unauthorized and therefore not in order on an appropriation bill.

On February 24, 1913,[3] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Martin D. Foster, of Illinois, made a point of order against a paragraph making an appropriation to pay for advertisements for recruits to the naval service.

No authority for the appropriation having been cited, the Chairman[4] sustained the point of order.

Mr. William F. Murray, of Massachusetts, inquired:

Did the Chair sustain the point of order in the absence of proof that there is no law? Does the Chair rule in the absence of any affirmative proof of the existence of the law that the point of order should be sustained?

The Chairman said:

The burden is on the committee to show the law authorizing the appropriation. That is the ground on which the Chair rules.

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[1] Second session Sixty-second Congress, Record, p. 7185.

[2] Cordell Hull, of Tennessee, Chairman.

[3] Third session Sixty-second Congress, Record, p. 3846.

[4] Joshua W. Alexander, of Missouri, Chairman.

1234. The law authorizing regulations for examination of midshipmen was held not to sanction an appropriation for transportation of successful candidates to the academy.

On February 11, 1921,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when an item providing an appropriation for transportation of successful candidates for appointment as midshipmen to the Naval Academy was reached.

Mr. Fred A. Britten, of Illinois, made a point of order that there was no authority for the provision.

The Chairman[2] said:

The gentleman from Illinois makes the point of order that the language—"and for mileage, at 5 cents per mile to midshipmen entering the Naval Academy while proceeding from their homes to the Naval Academy for examination and appointment as midshipmen"—is subject to the point of order, being legislation on an appropriation bill and not authorized by law. The gentleman from Michigan, Mr. Kelley, cites section 1515 of the United States Revised Statutes, edition of 1878, which reads:

"All candidates for admission to the Navy shall be examined according to such regulations and at such stated times as the Secretary of the Navy may prescribe. Candidates rejected at such examinations shall not have the privilege of another examination for admission to the same class, unless recommended by the board of examiners."

The Chair interprets this language to mean what it says, that it is for mileage allowance to midshipmen while proceeding from their homes to the Naval Academy for examination and appointment as midshipmen, and it is the view of the Chair that the section cited by the gentleman from Michigan, authorizing the Secretary of the Navy to make regulations for the examinations and to prescribe times when the examinations may be held, is not sufficient authority on which to base an allowance in an appropriation bill to pay mileage and, therefore, sustains the point of order.

1235. Statutory authorization for maintenance of a governmental service authorizes essential expenses incident thereto.

Expenses incurred by Naval officers on shore patrol duty, although not specifically authorized by law, are necessarily incidental to their service, and appropriations to pay them are in order on an appropriation bill.

On February 11, 1921,[3] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

Actual expenses of officers while on shore patrol duty.

Mr. Fred A. Britten, of Illinois, having raised the point of order that there was no authority of law for the appropriation, Mr. James R. Mann, of Illinois, said:

Mr. Chairman, there are two ways of looking at an appropriation bill appropriating money for a governmental service. One is that every item must be authorized by a specific provision of law, that you can not by a pen or the ink with which to use it appropriate unless a legislative provision of law authorizes the appropriation. That rather narrow view of the law, I think, has never, or at least seldom, prevailed in the rulings in the House. Where the Government provides for a service the incidental expenses which are absolutely necessary and essential to the conduct of the service, in my judgment, have been included as authorized by the creation

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[1] Third session Sixty-sixth Congress, Record, p. 3008.

[2] Joseph Walsh, of Massachusetts, Chairman.

[3] Third session Sixty-sixth Congress, Record, p. 3009.

of the service, and that you could appropriate for the ordinary incidental expenses necessary in the conduct of the service. Take this case. We have a Navy. The Navy is authorized to send its battleships to any port in the world. It goes to a foreign port or to a home port or some other port. The Navy is authorized, and I think no one will contradict that, to permit the officers of the Navy to allow the enlisted men shore duty. The Navy is authorized to permit the commanding officer of the vessel to detail officers to go on shore on patrol duty as one of the routine matters of the Navy, authorized in the maintenance of the Navy; the Government is authorized to pay the expense of that detail. I am inclined to think that one follows the other.

The Chairman [1] held:

The gentleman from Illinois makes a point of order to the language in the bill reading—

"Actual expenses of officers while on shore patrol duty"—in that it is an appropriation unauthorized by law.

The Chair has examined the decisions of existing law with reference to items of expense for officers in the Navy, such as travel and allowances made in lieu of mileage, also commutation of quarters and provisions for men when quarters are not available, and for the payment for travel between places in the United States, and also for travel between places abroad.

In all of these provisions specific authority is given to pay the travel and expenses or the allowance in lieu thereof, and while there is nothing to indicate that this particular item of expense is to be incurred for duty performed abroad or within the United States, the Chair feels that this item does not come within the provisions of the existing law for that character of expenses, and that there is no specific authority in the law authorizing the payment of the mileage, or for payment for travel between points within the United States or between foreign ports, or for the commutation of quarters, or for expenses ashore where quarters are not available. And there is a decision that no allowance shall be made in settlement of any account for travel expenses unless the same be incurred on the order of the Secretary of the Navy or the allowance be approved by him.

In the view of the Chair the question seems to come down to whether this duty is such an incident of the operation of the Navy Department which is to be performed by officers acting under orders as to make it a necessary part of the conduct of the Navy for which an expenditure can be incurred without specific detailed authority in a legislative act.

The Chair gathers from the statement of the gentleman from Michigan, as supplemented by the statement of the gentleman from Illinois, that this is a well-known duty in the Navy Department; that officers may be assigned to that duty under orders and that the requirement that the actual expenses while on that duty shall be paid. If there is no authority for this in the appropriations made for naval purposes, it would seem that it would impose a duty on the officers of the Navy, and that the incidental expenses in the performance of that duty would necessarily fall on the officer, which the Chair feels can not be the real intent of the existing laws or of Congress in setting up appropriations for the maintenance of the Naval Establishment. The Chair feels that while it does not come within the various classes specified authorized by law, in view of the information furnished by the gentleman in charge of the measure, as supplemented by statements made in discussion of the point of order on both sides of the question, the actual expenses of officers while performing this particular class of duty, which is a well-recognized duty in the Navy, is such a necessary incident as to authorize its inclusion in this bill, and therefore the Chair overrules the point of order.

1236. An appropriation for boards of inspection was held to be in order on an appropriation bill.

On February 11, 1921,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Fred A.

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[1] Joseph Walsh, of Massachusetts, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 3013.

Britten, of Illinois, raised a point of order against an item in the bill providing an appropriation for "boards of inspection, examining boards for clerks."

In support of the appropriation, Mr. Patrick H. Kelley, of Michigan, said:

Mr. Chairman, the expense of boards of inspection is definitely authorized by law under the act of August 5, 1882. Twenty-second Statutes at Large, 296. It is section 2786 of the compiled statutes.

"It shall be the duty of the Secretary of the Navy as soon as may be after the passage of this act, to cause to be examined by competent boards of officers of the Navy to be designated by him for that purpose all vessels belonging to the Navy not in actual service at sea, and vessels at sea as soon as practical after they shall return to the United States, and hereafter'

And the word "hereafter" puts it beyond all doubt in respect to its being permanent. "and hereafter all vessels on their return from foreign stations, and all vessels in the United States as often as once in three years, when practical, shall be examined; and said board shall ascertain and report to the Secretary of the Navy in writing which of said vessels are unfit for further service, etc."

The Chairman [1] ruled:

The gentleman from Illinois makes the point of order to the language—

"Boards of inspection, examining boards, with clerks"—in the bill. The statute which has been cited by the gentleman from Michigan would seem to the Chair to authorize the Secretary of the Navy to convene such boards for the duties therein specified, and the mere fact that any one of these particular items in the paragraph might require the expenditure of the total appropriation seems to the Chair has no bearing on the point of order. The Chair feels that the statute cited clearly authorizes the appropriation and, therefore, overrules the point of order.

1237. An appropriation for hire of vessels in Asiatic waters was held to be in order on an appropriation bill as an incidental expense to maintenance of an authorized service.

On February 11, 1921,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Fred A. Britten, of Illinois, raised a question as to authority of law for an appropriation for "hire of launches or other small boats in Asiatic waters."

The Chairman [1] held the appropriation to be authorized as necessarily incidental to maintenance of the Navy, and overruled the point of order.

1238. An appropriation for the recovery of valuables from shipwrecks was held to be authorized by law.

On February 11, 1921,[3] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the question as to authorization of an appropriation carried by the bill for "recovery of valuables from shipwrecks" was raised by Mr. Fred A. Britten, of Illinois.

The Chairman [1] held:

The gentleman from Illinois makes the point of order against the language "recovery of valuables from shipwrecks." The Chair has examined the statute and finds that not only is the President given authority to cause a suitable number of vessels to cruise and afford aid to distressed navigators, but the Secretary of the Navy is authorized to cause vessels under his control

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[1] Joseph Walsh, of Massachusetts, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 3013.

[3] Third session Sixty-sixth Congress, Record, p. 3014.

adapted for the purpose to afford salvage to public or private vessels in distress, and is further authorized to collect reasonable compensation therefor. While this is not perhaps expressed in maritime language, yet it is the view of the Chair that it comes within the rule and is authorized by the two paragraphs of the statutes to which the gentleman from Michigan has referred. The Chair, therefore, overrules the point of order.

1239. An appropriation for "collection of information at home and abroad" by the naval service was held to be authorized by law.

On February 11, 1921,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Fred A. Britten, of Illinois, made the point of order against language in the bill reading as follows:

Information from abroad and at home, and the collection and classification thereof.

Mr. Patrick H. Kelley, of Michigan, submitted the following statute[2] as authorizing the appropriation:

The President may, when the necessities of the service permit it, cause any suitable number of public vessels adapted to the purpose to cruise upon the coast in the season of severe weather and afford such aid to distressed navigators as their circumstances may require, and such public vessels shall go to sea fully prepared to render such assistance.

The Chairman[3] construed this statute to authorize the appropriation, and overruled the point of order.

1240. An appropriation for recreation of enlisted men, although without specific statutory authorization, was held to be in order on an appropriation bill as necessary to the efficient maintenance of naval operations.

On February 11, 1921,[4] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

Recreation for enlisted men: For the recreation, amusement, comfort, contentment, and health of the Navy, to be expended in the discretion of the Secretary of the Navy, under such regulations as he may prescribe: *Provided,* That not more than two persons shall be employed hereunder at a rate of compensation exceeding $1,800 per annum, $800,000.

A point of order that there was no authorization of law for this appropriation having been made by Mr. Fred A. Britten, of Illinois, the Chairman[3] said:

The gentleman from Illinois makes the point of order on the paragraph beginning "Recreation for enlisted men." The Chair recalls there was some discussion of this matter when the Army bill was under consideration. Not a point of order, I think, but some question, was raised against providing moving pictures for Army enlisted men at the various camps, to which the argument was made by one of the members of the committee that:

"The purpose of these recreational exercises is largely to keep the enlisted men of the Army in the camps instead of sending them into the town near by to obtain recreation not so innocent. If we can maintain better discipline in the Army and better order in the Army by providing pictures for men to look at in the camp rather than to send them to see vice in a neighboring joint, I think it is quite within our power to appropriate for that purpose, as included in the general purpose of maintaining the Army."

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[1] Third session Sixty-sixth Congress, Record, p. 3014.

[2] Revised Statutes, section 2776.

[3] Joseph Walsh, of Massachusetts, Chairman.

[4] Third session Sixty-sixth Congress, Record, p. 3024.

The Chair believes that the reasoning which is there applied to the appropriation for recreational purposes in the Army could equally well be applied to the naval service, and that the appropriation for the recreation, amusement, comfort, contentment, and health of the Navy is necessarily incident to preserving the naval organization and good order, and therefore overrules the point of order.

1241. An appropriation for contingent expenses and unforeseen emergencies was held to be in order on an appropriation bill.

On February 11, 1921,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read a paragraph appropriating for contingent expenses of the Navy.

Mr. Fred A. Britten, of Illinois, made the point of order that there was no law authorizing an appropriation for this purpose.

The Chairman[2] ruled:

The Chair believes that this language in the paragraph headed "contingent," which enumerates several contingencies and then provides for other contingent expenses and emergencies arising in the cognizance of the Bureau of Navigation, and so forth, comes within the precedent established where an emergency fund to meet unforeseen contingencies in the maintenance of the Navy was held in order. The Chair overrules the point of order.

1242. An appropriation for the establishment of shooting ranges and the purchase of prizes and trophies was held not to be in order on an appropriation bill.

On February 11, 1921,[3] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

Gunnery and engineering exercises: Prizes, trophies, and badges for excellence in gunnery, target practice, engineering exercises, and for economy in fuel consumption, to be awarded under such rules as the Secretary of the Navy may formulate; for the purpose of printing, recording, classifying, compiling, and publishing the rules and results; for the establishment and maintenance of shooting galleries, target houses, targets, and ranges; for hiring established ranges, and for transporting equipment to and from ranges, $100,000.

Mr. Fred A. Britten, of Illinois, raised the question of order that there was no authorization for this expenditure.

The Chairman[1] said:

The gentleman from Illinois makes the point of order against the paragraph, and the paragraph contains language which does not appear to be necessarily incidental or requisite for the proper conduct of the Naval Establishment. Further, there is the establishment or maintenance of shooting galleries for which there appears to be no authorization of law, notwithstanding the fact that this item has been carried in the bill for many years. If there is any language in the paragraph subject to the point of order, of course, the entire paragraph is. Does the gentleman contend that the Postmaster General could give prizes to letter carriers, such as badges and trophies, for efficient delivery of the mail, without authorization of law? The Chair feels that the paragraph contains language that is not necessarily incident to the maintenance of the Naval Establishment. It carries legislation providing for trophies and prizes and also for the establishment of shooting galleries. The Chair sustains the point of order.

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[1] Third session Sixty-sixth Congress, Record, p. 3026.

[2] Joseph Walsh, of Massachusetts, Chairman.

[3] Third session Sixty-sixth Congress, Record, p. 3027.

1243. An appropriation for experiments by the Bureau of Ordnance, while not specifically authorized by statute, was held to be in order on an appropriation bill.

On February 12, 1921,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

Experiments, Bureau of Ordnance: For experimental work in the development of armor-piercing and other projectiles, fuses, powders, and high explosives in connection with problems of the attack of armor with direct and inclined fire at various ranges, including the purchase of armor, powder, projectiles, and fuses for the above purposes and of all necessary material and labor in connection therewith; and for other experimental work under the cognizance of the Bureau of Ordnance in connection with the development of ordnance material for the Navy, $250,000.

Mr. Fred A. Britten, of Illinois, raised the question of order that the paragraph was not authorized by law:

The Chairman[2] held:

The gentleman from Illinois makes the point of order on the paragraph headed "Experiments, Bureau of Ordnance." This paragraph provides for experimental work in the development of armor-piercing and other projectiles, fuses, powders, and high explosives in connection with problems of the attack of armor with direct and inclined fire at various ranges, including the purchase of armor, powder, projectiles, and fuses for the above purposes and of all necessary material and labor in connection therewith; and for other experimental work under the cognizance of the Bureau of Ordnance in connection with the development of ordnance material for the Navy, $250,000. But the question seems to resolve itself into one as to whether this work is necessarily incidental to the proper conduct of one of the recognized and legally established bureaus of the Navy Department, and that it may make experiments with projectiles, armor, high explosives, and other facilities which are necessarily a part of naval ships, or which may be included in the proper work of the Navy under this particular bureau; and while it is not a question exactly similar to that presented by appropriations for emergencies, it would seem to the Chair that this might be held to be one of the necessary incidentals to the operations of this particular activity of the Navy Department, and as such might properly be appropriated for in the appropriation bill for the Naval Establishment. The Chair will overrule the point of order upon that ground.

1244. An appropriation for hire of quarters for naval personnel when otherwise unobtainable was held to be in order on an appropriation bill.

On February 12, 1921,[3] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the paragraph providing pay for the Navy was read.

Mr. Fred A. Britten, of Illinois, made a point of order against the language contained in the paragraph, as follows:

Mr. Chairman, I make the point of order against the paragraph:

"For hire of quarters for officers serving with troops where there are no public quarters belonging to the Government, and where there are not sufficient quarters possessed by the United States to accommodate them or commutaton of quarters not to exceed the amount which an

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[1] Third session Sixty-sixth Congress, Record, p. 3083.

[2] Joseph Walsh, of Massachusetts, Chairman.

[3] Third session Sixty-sixth Congress, Record, p. 3094.

officer would receive were he not serving with troops, and hire of quarters for officers and enlisted men on sea duty at such times as they may be deprived of their quarters on board ship due to repairs or other conditions which may render them uninhabitable, $25,000."

That is legislation on an appropriation bill not authorized by law.

The Chairman [1] ruled:

The gentleman from Illinois makes the point of order upon the language indicated. The Chair finds that there is provision of law for commutation of quarters for officers, and also a provision when quarters are not available, and this language seeks, apparently, to make an appropriation to carry out the authority to incur the expenses under the provisions of existing law. Then there is a provision that the Secretary of the Navy may determine where and when there are no public quarters available for persons in the Navy and Marine Corps within the meaning of acts or parts of acts relating to the assignment of quarters or the commutation therefor. The Chair overrules the point of order.

1245. Appropriations for hire of automobiles, hire of launches, and rent of offices outside of navy yards were held incidental to the maintenance of the Naval Establishment and therefore in order on an appropriation bill.

On February 8, 1929,[2] the Committee of the Whole House on the state of the Union was considering the naval appropriation bill.

When the paragraph providing for the Naval Establishment was reached, Mr. Carl Vinson, of Georgia, made a point of order against the following language:

Including the hire of automobiles when necessary for the use of shore-patrol detachments; hire of launches or other small boats in Asiatic waters.

Also,

for rent of buildings and offices not in navy yards.

The Chairman [3] held:

The Chair is of opinion that by an attempt to put into the law minute provision for all possible manner of expenditure the size of the statute books would be largely increased, and that by reason of the impossibility of foresight in matter of detail more harm than good would result. It has been the uniform ruling of preceding Chairmen, so far as the Chair can ascertain, that these minor and incidental objects of expenditures are natural to the conduct of the business establishment concerned.

Furthermore, the Chair is supported in his conviction by the fact that these items have passed under the scrutiny of repeated Congresses, and therefore might be assumed to have in this particular received at least the tacit approval of preceding Congresses as matters incident to the conduct of the business establishment. While, of course, such approval, if it be assumed, is never conclusive, yet when the question is one of the interpretation of existing law the construction accepted by previous Congresses may be somewhat persuasive.

For these reasons the Chair overrules the point of order.

1246. A provision in a general appropriation bill authorizing the expenditure of money therein appropriated for the protection of the naval petroleum reserve was held to be authorized by the holding statute.

A statute imposing certain duties on a departmental executive was held not to authorize an appropriation to enable the President to discharge such duties.

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[1] Joseph Walsh of Massachusetts, Chairman.

[2] Second session Seventieth Congress, Record, p. 3085.

[3] Robert Luce, of Massachusetts, Chairman.

If a part of a paragraph is out of order, the entire paragraph is subject to a point of order.

On May 13, 1930,[1] during consideration of the naval appropriation bill, the Clerk read:

To enable the Secretary of the Navy to carry out the provisions contained in the act approved June 4, 1920, requiring him to conserve, develop, use, and operate the naval petroleum reserves, $175,000, of which $100,000 shall be available exclusively toward repairs to shut-in wells, naval petroleum reserve No. 1: *Provided,* That out of any sums appropriated for naval purposes by this act, any portion thereof, not to exceed $10,000,000, shall be available to enable the President to protect naval petroleum reserve No. 1, established by Executive order of September 2, 1912, by drilling wells and performing any work incident thereto.

Mr. Albert Johnson, of Washington, made a point of order that both the paragraph and the proviso embodied legislation.

After debate, the Chairman[2] ruled:

The gentleman from Washington makes the point of order on the paragraph on the ground that it is new legislation on an appropriation bill. The gentleman from Idaho, Mr. French, relies upon two sections as authorization for this appropriation—the act of June 25, 1910,[3] and the act approved June 4, 1920.[4] The first-named statute seems to the Chair to deal almost exclusively with the matter of withdrawal of public land for purposes of naval petroleum reserves.

The other act provides that—

"The Secretary of the Navy is directed to take possession of all properties within the naval reserves as are or may become subject to the control and use by the United States for naval purposes, and on which there are no pending claims or applications for permits or leases under the provisions of sections 223–229 of title 30, Mineral Lands and Mining, or pending applications for United States patent under any law; to conserve, develop, use, and operate the same in his discretion, directly or by contract, lease, or otherwise, and to use, store, exchange, or sell the oil and gas products thereof, and those from all royalty oil from lands in the naval reserves, for the benefit of the United States."

The Chair thinks that statute is amply broad to sustain the language. In fact, the language is almost identical with the language of the statute which the Chair has just read, and in the opinion of the Chair is sufficient law to authorize this appropriation under which the Secretary of the Navy can conserve, use, and operate naval petroleum reserves. Therefore, as to the first point of order made by the gentleman from Washington against the language, the Chair overrules the point of order.

However, as to the latter part of the proviso, the Chair does not believe that either of the two statutes cited authorizes the appropriation proposed here to enable the President to drill wells on these reserves. The Chair thinks that an appropriation might be made to permit the Secretary of the Navy to drill wells, but the Chair does not believe that the statutory authority given to the Secretary of the Navy is sufficient to authorize an appropriation placing this power directly and solely in the President to drill wells on the naval reserves. That is, you can not usurp by legislation on an appropriation bill powers specifically granted by statute to the Secretary of the Navy and place them directly in the President in an appropriation bill. Inasmuch as the point of order was made against the entire section, the Chair therefore sustains the point of order against the entire section.

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[1] Second session Seventy-first Congress, Record, p. 8874.

[2] Homer Hoch, of Kansas, Chairman.

[3] Title 43, section 141–143, U.S. Code.

[4] Title 34, section 524, U.S. Code.

Mr. Burton L. French, of Idaho, then offered an amendment identical with the paragraph just stricken out on the point of order, with the exception that "the Secretary of the Navy" was substituted for "the President."

Mr. Johnson submitted the same point of order.

The Chairman said:

The Chair is of the opinion that the act of June 4, 1920, is amply broad to provide authorization for the appropriation carried in the proviso and, for reasons stated in the recent ruling of the Chair, the Chair overrules the point of order.

1247. Ratification by law of appointment of delegates to a convention was not construed to authorize appropriations for expenses of an international commission organized by the convention.

On February 9, 1918,[1] the diplomatic and consular appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

To defray the actual and necessary expenses on the part of the United States section of the International High Commission, arising in such work and investigations as may be approved by the Secretary of the Treasury, $25,000, to be expended under the direction of the Secretary of the Treasury:

Mr. William H. Stafford, of Wisconsin, raised the question of order that there was no authorization of law.

After debate, the Chairman[2] said:

The gentleman from Wisconsin makes the point of order against the provision in the bill making an appropriation for the International High Commission on the ground that it is legislation on an appropriation bill not authorized by law. It is undoubtedly the practice of the House under its rules that a committee proposing legislation must show authority of law for the legislation to make it in order on an appropriation bill. The Chair has listened attentively to the arguments and the acts of Congress read bearing on the case. It is contended that the Secretary of the Treasury appointed delegates to attend a convention, and that those delegates, in connection with delegates from other countries, organized this International High Commission. It is admitted that there was no provision of law authorizing the Secretary of the Treasury to appoint said delegates. Subsequently Congress passed a law ratifying the appointment by the Secretary of the Treasury of the aforesaid delegates and made an appropriation to pay their expenses while attending the conference. The gentleman from Virginia contends that in the act of Congress ratifying the appointment of such delegates Congress approved their act in establishing the International High Commission and making it a permanent organization.

The Chair is of the opinion there has been no specific authority of law cited the Chair that authorizes the creation of a permanent high commission. The Chair does not believe Congress could be said by simply ratifying the appointment of delegates to a convention to approve the legislation of the convention to which the delegates were accredited unless Congress specifically so stated in the act itself. The Chair does not believe Congress will ever delegate its legislating functions to any other body or convention. Therefore the Chair is constrained to hold that there is no law authorizing the creation of this high commission; that the paragraph is new legislation and is not in order on an appropriation bill. The Chair sustains the point of order.

1248. The power of the President to appoint diplomatic representatives to foreign governments and to determine their rank is derived from the Constitution and may not be circumscribed by statutory enactments.

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[1] Second session Sixty-fifth Congress, Record, p. 1910.

[2] Benjamin G. Humphreys, of Mississippi, Chairman.

Where the President has appointed a diplomatic representative and the appointment has been approved by the Senate, a point of order does not lie against an appropriation for the salary of such representative unless the rate of pay has been otherwise fixed by law.

A statute prohibiting the creation of new ambassadorships except by act of Congress is in contravention of the President's constitutional prerogatives and will not support a point of order against an appropriation for the salary of an ambassadorship not created by act of Congress but appointed by the President and confirmed by the Senate.

The President, at will, may raise a legation to an embassy or reduce an embassy to a legation, any statute to the contrary notwithstanding, and where the President has made such change and followed it with an appointment which has been approved by the Senate, an appropriation for the salary of the appointee is in order unless the rate of pay is in contravention of law.

In the absence of an actual appointment by the President, or of confirmation of such appointment by the Senate, an appropriation for the salary of a minister to a country to which a statute authorizes the appointment of an ambassador is subject to a point of order.

Where a statute authorizes a diplomatic mission to a designated government it is in order to appropriate for the salary of diplomatic officers thereto prior to their appointment by the President.

On January 27, 1921,[1] while the House was in the Committee of the Whole House on the state of the Union considering the diplomatic and consular appropriation bill, the Clerk read the following paragraph:

Ambassadors extraordinary and plenipotentiary to Argentina, Belgium, Brazil, Chile, China, France, Germany, Great Britain, Italy, Japan, Mexico, Peru, and Spain, at $17,500 each, $227,500.

Mr. Henry D. Flood, of Virginia, made a point of order against the appropriation for an ambassador to China, on the ground that the existing mission was a legation and could not be elevated to the rank of an embassy without legislation by Congress, citing in support of his contention the act of March 2, 1909, prohibiting the creation of new ambassadorships unless provided for by act of Congress.

Mr. John Jacob Rogers, of Massachusetts, in charge of the bill, while asserting[2] the constitutional right of the President to raise a legation to an embassy, conceded that in this instance the President had taken no such action, and the Chairman[3] sustained the point of order.

Later[4] in the day the following paragraph was reached:

Envoys extraordinary and ministers plenipotentiary to Austria, Bolivia, Bulgaria, Colombia, Costa Rica, Denmark, Dominican Republic, Ecuador, Finland, Greece, Guatemala, Haiti, Honduras, Hungary, Nicaragua, Norway, Panama, Paraguay, Uruguay, Persia, Portugal, Rumania, Salvador, Siam, Sweden, Switzerland, Turkey, and Venezuela, at $10,000 each, and to the Serbs, Croats, and Slovenes, $10,000; in all, $290,000.

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[1] Third session Sixty-sixth Congress, Record, p. 2145.

[2] Record, p. 2168.

[3] Horace M. Towner, of Iowa, Chairman.

[4] Record, p. 2148.

Mr. Thomas L. Blanton, of Texas, raised points of order against the appropriations for ministers to Turkey, Finland, and to the Serbs, Croats and Slovenes, on the ground that they were not authorized by law.

The committee of the Whole House on the state of the Union having risen during debate on the point of order and before the Chairman could render an opinion, Mr. Rogers said on the following day,[1] when the bill was again under consideration in the Committee of the Whole:

Mr. Chairman, I desire further recognition to discuss the point of order which was pending when the committee rose last evening. The point of order made by the gentleman from Texas related to three items in the third paragraph of the bill—one appropriating a salary for the minister to Finland, another appropriating a salary for the minister to the Serbs, Croats, and Slovenes, and the third appropriating a salary for the minister to Turkey.

The Chair, as I gathered from comments which he interjected, agrees with my contention that it is the function of the Executive to recognize foreign countries, but the Chair was apparently in some doubt whether the right to recognize carried with it the right to appoint a minister or ambassador without the express and direct sanction of Congress in each case. I desire at this point to read into the Record the paragraph of the Constitution on which I rely in my assertion that the three missions in question are authorized by law, for the authority of law in this instance is the supreme law of the land—the Constitution.

Article II, section 2, of the Constitution provides, in part:

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for and which shall be established by law. * * *"

The question presents itself at the outset as to whether the final clause which I have read "and which shall be established by law" must be construed as relating so far back into the previous language of the paragraph as to limit the authority of the President to appoint ambassadors, other public ministers and consuls. So far as I know, that exact question has never been decided by the Supreme Court of the United States. But in a case decided by Mr. Justice Marshall, while sitting in the Circuit Court of the United States for the District of Virginia and North Carolina, during the year 1823, there is a discussion by Judge Marshall of the general questions which are presented by this phase of the present controversy. This case is United States against Maurice and others, Brockenbrough's Reports, volume 2, page 96, especially at pages 100 to 103. Justice Marshall found it necessary to consider the antecedent of "which" in the clause which I have quoted. In the course of his discussion he says:

"I feel no diminution of reverence for the framers of this sacred instrument when I say that some ambiguity of expression has found its way into this clause. If the relative 'which' refers to the word 'appointments,' that word is referred to in a sense rather different from that in which it had been used. It is used to signify the act of placing a man in office, and referred to as signifying the office itself. Considering this relative as referring to the word 'offices,' which word, if not expressed, must be understood, it is not perfectly clear whether the words 'which' offices 'shall be established by law' are to be construed as ordaining that all offices of the United States shall be established by law or merely as limiting the previous general words to such offices as shall be established by law. Understood in the first sense, this clause makes a general provision that the President shall nominate and, by and with the consent of the Senate, appoint to all offices of the United States, with such exceptions only as are made in the Constitution, and that all offices (with the same exceptions) shall be established by law. Understood in the last sense, this general provision comprehends those offices only which might be established by law, leaving it in the power of the Executive, or of those who might be intrusted with the execution of the laws, to create in all laws of legislative omission such offices as might be deemed necessary for their execution, and afterwards to fill those offices. * * *"

[1] Record, p. 2164.

"In this ignorance of the course which may have been pursued by the Government, I shall adopt the first interpretation, because I think it accords best with the general spirit of the Constitution, which seems to have arranged the creation of office among legislative powers, and because, too, this construction is, I think, sustained by the subsequent words of the same clause, and by the third clause of the same section."

In other words, Justice Marshall regarded the "which" as relating back to the word "offices" and not as relating back to the word "appointments."

But his so holding carries with it the corollary that he did not deem it a possible construction that the "and which" clause which I have quoted could possibly relate to the portion of the language which refers to ambassadors, other public ministers and consuls. Therefore, while the authority is not a square one, it seems to indicate that in the opinion of John Marshall the President's power to appoint ambassadors and public ministers did not depend upon any statutory enactment by Congress, but found its source directly in the Constitution itself.

Mr. Chairman, this general problem was apparently first considered by the executive officers of the United States Government in 1790. I quote from volume 4 of Moore's International Law Digest, section 632:

"Thomas Jefferson was asked for an opinion upon the situation in relation to the appointment of our foreign representatives, and he gave this opinion:

"'The Constitution having declared that the President shall nominate and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, the President desired my opinion whether the Senate has a right to negative the grade he may think it expedient to use in a foreign mission as well as the person to be appointed. I think the Senate has no right to negative the grade.'"

Again, James Monroe, when President of the United States in 1822, consulted ex-President James Madison upon a somewhat similar question, and Mr. Madison answered thus:

"The practice of the Government has from the beginning been regulated by the idea that the places or offices of public ministers and consuls existed under the law and usages of nations and were always open to receive appointments as they might be made by competent authority."

In the second volume of Hinds' Precedents, section 1546, there is a very extended discussion of a matter which came before this House of Representatives in 1825.

On December 6, 1825, in his annual message to Congress, President John Quincy Adams referred to the independence of the South American Republics and said:

"Among the measures which have been suggested to them by the new relations with one another resulting from the recent changes in their condition is that of assembling at the Isthmus of Panama a congress, at which each of them shall be represented, to deliberate upon objects important to the welfare of all. The Republics of Colombia, of Mexico, and of Central America have already deputed plenipotentiaries to such a meeting, and they have invited the United States to be also represented there by their ministers. The invitation has been accepted, and ministers on the part of the United States will be commissioned to attend at these deliberations and to take part in them, so far as may be compatible with that neutrality from which it is neither our intention nor the desire of other American States that we should depart."

The question came before the House on March 25, 1826, as to whether an appropriation should be made for the expenses of the mission which President Adams had announced he was proposing to send. The Committee on Ways and Means reported a bill making an appropriation for the commission. The bill was very hotly argued in the House of Representatives, many able Representatives being heard in favor of the appropriation and others being equally urgent in opposition to the appropriation. This is the line of argument, as quoted in Hinds' Precedents, advanced by Daniel Webster, who 16 years after that time became Secretary of State. Webster strongly urged the passage of the appropriation:

"Those who argued that the appropriation should be made called attention to the fact that public ministers were created not by statute but by the law of nations and were recognized by the Constitution as existing. They were appointed by the President and the Senate. Acts of Congress limited their salaries, but did no more. By voting the salaries the House simply empowered another branch of the Government to discharge its own duties. In so voting the House

had no responsibility for the conduct of the negotiations. To refuse the appropriation would be to prevent the action of the Government according to constitutional plan. Of course, the House could break up a mission by withholding salaries, as it could break up a court, but the House should not, and could not, share Executive duty."

Then James Buchanan, later Secretary of State under Polk and still later President of the United States, joined in the discussion on the same side with Daniel Webster. He said in substance this:

"The House is morally bound to vote the salaries of ministers duly created by the President and the Senate. The obligation is as strong as it is to carry into effect a treaty. The power to create the minister was contained in the same clause that provided for treaties. The House might not prejudge the determination of the President and Senate in regard to those officers. Their salaries might not be withheld any more than the House could withhold the salaries of the President and the Supreme Court. If the salaries were withheld the ministers would be legally appointed and their acts would be valid. Of course, however, the House has the physical power to withhold an appropriation."

In 1856 Congress passed a general act regulating in detail the Foreign Service of the United States. I shall not read it in full because it is rather an extended statute. But it begins as follows (11 Stat., 52):

"Ambassadors, envoys extraordinary, and ministers plenipotentiary, ministers resident, commissioners, chargés d'affaires, and secretaries of legation appointed to the countries hereinafter named in Schedule A shall be entitled to compensation for their services, respectively, at the rates per-annum hereinafter specified. That is to say, ambassadors, envoys extraordinary, and ministers plenipotentiary, the full amount specified therefor in Schedule A"—

And so forth.

The question of the powers of the President to make diplomatic and consular appointments was referred to Attorney General Cushing shortly before the enactment of this statute. Cushing rendered this opinion (reported in 4 Moore's Digest, sec. 632):

"The President under the Constitution has power to appoint diplomatic agents of any rank at any place and at anytime, subject to the constitutional limitations in respect to the Senate. The authority to make such appointments is not derived from and can not be limited by any act of Congress except in so far as appropriations of money are required to provide for the expenses of this branch of the public service. During the early administrations of the Government the appropriations made for the expenses of foreign intercourse were to be expended in the discretion of the President, and from this general fund ministers whom the President saw fit to name were paid. Congress in any view can not require that the President shall make removals or reappointments or new appointments of public ministers at a particular time, nor that he shall appoint or maintain ministers of a prescribed rank at particular courts. It was therefore held that where the act of March 1, 1855 (10 Stat. 619), declared that from and after the end of the present fiscal year the President shall appoint envoys, etc., this was not to be construed to mean that the President was required to make any such appointments, but only to determine what should be the salaries of the officers in case they have been or shall be appointed."

In volume 11 of the Federal Statutes Annotated, page 49, there is this comment upon the question now before the committee:

"The President has power by the Constitution to appoint diplomatic agents for the United States at any rank at any place and at any time in his discretion, subject always to the constitutional conditions of relation to the Senate. The power to appoint diplomatic agents and to select for employment any one out of the varieties of the class according to his judgment of the public service is a constitutional function of the President not derived from nor limited by Congress but requiring only the ultimate concurrence of the Senate."

A citation that statement refers to the opinion of the Attorney General from which I have already read. There is also cited the opinion of the Attorney General in 1855 to the effect that—

"Consuls are officers created by the Constitution and the laws of nations, not by acts of Congress, and it belongs exclusively to the President, by and with the advice and consent of the Senate, to appoint consular officers to such places as he and they deem to be meet."

So much for the principal authorities I find upon the constitutional and parliamentary question before the committee.

It appears that so far as the appointment of ministers is concerned the power of the President has always been recognized by Congress over those questions, and appropriations have always followed for the payment of the salaries of the men whom the President has sent forth as ministers.

I gathered from the comment of the Chair yesterday that possibly he was somewhat troubled by the fact that Congress had legislated upon this general question first in 1893 and again in 1909. The substance of the statute of 1893 was that whenever the President should find that a foreign country was sending a diplomatic representative to the United States the President might send to the foreign country from the United States a diplomatic representative of the same rank. My contention is, Mr. Chairman, that the statute had no effect whatever to limit the power of the President to send an ambassador or minister as he chose to any country, irrespective of the provisions of the act of Congress. The real effect of the act of Congress was twofold.

In the first place, it indicated the terms upon which the Senate and House of Representatives would be prepared to make a salary appropriation in case the appointment was made by the President. And, second, so far as the Senate was concerned, it indicated a willingness on the part of the Senate to confirm a proper appointee to a particular country which the President might choose to recognize by making the appointment. So far as the statute of 1909 was concerned, the effect was very similar. The statute of 1909 forbade, as far as Congress could forbid, the sending forth of an ambassador unless the specific authority of Congress had been given in each case. There again the President, in my opinion, could have sent forth a new ambassador the next day to a country, even though we had never before sent an ambassador to that country, and even though that country was not represented in Washington by an ambassador.

But the Congress by the statute of 1909 was suggesting that it was unlikely to appropriate a salary in such a case, and the Senate was suggesting that it was unlikely that such an appointment would be confirmed. In other words, the power of the President can not be curtailed, because that power flows directly from the Constitution. But Congress also has safeguards upon the exercise of the power. In effect, it can usually make the exercise of the power practically null and void, either by withholding the confirmation or by withholding the salary. And, I repeat, when Congress passed those two acts it was indicating its policy so far as the policy was one upon which legislation could take hold.

In my opinion, therefore, the point of order in so far as it relates to the minister to the Serbs, Croats, and Slovenes, and in so far as it relates to the minister to Finland, is clearly not valid.

It should not be lost sight of that one way of recognizing a foreign power is by the act of sending a minister or ambassador. As a matter of practice and custom in our international relationship, that has been our usual way of recognizing a country for the first time, namely, by the act of sending forth a minister. So, it seems to me, that when the Chair is inclined to feel, as I suspect he is inclined to feel, that recognition is solely an Executive function with which Congress has no direct contact at all, the corollary follows that the usual manner of according recognition, namely, by sending forth an ambassador or minister, must also be within the constitutional power of the President, and therefore not subject to a point of order on an appropriation bill.

In a colloquy with Mr. James R. Mann, of Illinois, Mr. Rogers explained in detail the practice and the statutes governing the appointment of diplomatic representatives to foreign Governments and the fixing of their salaries.

The Chairman held:

The point of order made by the gentleman from Texas is that there is no legislation authorizing an appropriation for the payment of the salary of an envoy extraordinary and minister plenipotentiary to Finland, to Turkey, and to the Kingdom of the Serbs, Croats, and Slovenes.

It is admitted, I think, by all that there is no statutory authority which authorizes these appropriations. It is contended, however, that there is constitutional authority, because the Constitution provides that the President may appoint envoys extraordinary and ministers

plenipotentiary, and that having exercised that power of appointment the superior law of the Constitution authorizes the House, without statutory authority, to make the appropriation.

The authority of the President with regard to diplomatic matters is exclusively committed to him and is not shared in any particular, except by the provision of the Constitution which says that with regard to treaties two-thirds of the Senate must concur and that with regard to diplomatic appointments they must be confirmed by the Senate.

Regarding the power of the President in relation to diplomatic matters the Chair desires to cite McClain's Constitutional Law in the United States, page 213, which states somewhat strongly, but perhaps with entire justification, the international law as well as the constitutional law of the country with regard to this exercise of power by the President:

"Toward foreign powers"—

He says—

"the United States collectively constitute one single power, represented by the Federal Government, and the relations between that Government and foreign governments are through the executive department and in the name of the President as Chief Executive.

"Congress can not deal with foreign powers, and the courts can only take cognizance of their existence and rights by recognizing, interpreting, and applying the action of the executive department, evidenced by treaties or otherwise. The action of the executive department in determining in a controversy with a foreign government whether certain territory is territory of the United States can not be interfered with by the courts. (See Jones *v.* United States.) So also it is for the executive department to determine whether this Government will recognize as an independent sovereign power a foreign state claiming such recognition. In short, the entire diplomatic relations between this and other countries are under the control of the Executive; and the action of the Executive in such matters is binding upon Congress, the courts, and all Federal and State officers."

The gentleman from Illinois, Mr. Mason, says that Congress has passed resolutions which in effect recognized foreign governments. The Supreme Court of the United States has said that the President has the sole power of recognition. However, there is no real difference between them, because, after all, if the President shall appoint an ambassador or a minister, and Congress shall refuse to appropriate for him, there can be no exercise of the power of the President. He has done his duty. Congress perhaps have done theirs, but they negative each other in practical effect. And so it is with regard to recognition by Congress. Congress may pass an act recognizing any country struggling for independence; and I will say that Congress might even go further and authorize the appointment of an ambassador or a minister and make an appropriation for that purpose. All these things might be done, but if the President did not appoint the ambassador or the minister diplomatic relations between those countries could not exist.

Of course, in these cases it is possible for the President, under the constitutional authority, to appoint an ambassador, or a minister, if he chooses to do so. He should know, however, that Congress will sanction his action in the appointment by appropriating for its support before it can be effective.

Congress in 1809 passed an act to the effect that the President should not appoint ambassadors except upon the authority of Congress. That had no effect upon the constitutional power of the President. He could make such appointments nevertheless, but it did have the practical effect of serving notice upon the President that thereafter he must not make ambassadorial appointments except upon the authority of the Congress of the United States. So that the practical effect of that legislation was what I have stated, although it might be considered that that act was absolutely unconstitutional, because it encroached upon the prerogatives of the President of the United States. Now, in this case, coming down to the practical application of these principles, let us see how it leaves us with regard to Turkey. There is statutory authority for the appointment of an ambassador to Turkey. There is, however, no statutory authority for the appointment of a minister to Turkey. In the past there have been appointments of ambassadors to Turkey who have served, but at this time there is not only no ambassador appointed, there has been no minister appointed, and no diplomatic relations whatever exist between the two countries. It can not be said that the appointment of a minister would rest upon the statutory

authority to appoint an ambassador. Neither can it be said that it rests upon the President's act in appointing a minister, because he has not appointed a minister; so that it seems to the Chair that with regard to this particular item the point of order made by the gentleman from Texas is good, and the Chair sustains it.

With regard to the other propositions, however, the Chair is of the opinion that there is ample constitutional authority for the power which has been exercised by the President both in the case of Finland and in the case of the appointment to the Kingdom of the Serbs, Croats, and Slovenes. In these cases the President has made the appointments, and both of these appointments have been confirmed by the Senate. So it would seem to the Chair that there is ample authority in law for the Congress, if it desires to do so, to appropriate for the payment of their salaries.

Therefore the point of order raised by the gentleman from Texas with regard to these two items in the bill as to those two countries is overruled.

1249. Mere authority conferred by law to issue passports was held not to authorize creation of a bureau for that purpose.

On January 11, 1921,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Frederick C. Hicks, of New York, proposed this amendment:

New York, N. Y., passport bureau: Passport agent, $2,000; clerks—2 of class 4, 3 of class 3, 3 of class 2, 2 of class 1; messenger; messenger boy, $480; stationery, furniture, fixtures, and other miscellaneous expenses, $2,500; in all, $20,820.

San Francisco, Calif., passport bureau: For salaries and expenses of maintenance of the passport bureau, $7,500.

Mr. William R. Wood, of Indiana, having raised the question of authorization, Mr. Hicks argued:

I would like to call the attention of the Chair to this fact that in the statute there is this provision about the issuing of passports:

"The Secretary of State may grant and issue passports and cause passports to be granted, issued, and verified in foreign countries"—

And so forth. On that broad authorization, by which the Secretary of State is authorized to issue passports, I claim that he could issue them in Washington, in New York, or in San Francisco; that in order to issue passports he must have clerical help and he must have an office; and as that broad authorization gives him the right to issue passports that right extends not only to the city of Washington, but it can be carried to the city of New York or the city of San Francisco, and therefore it is authorized by law.

The Chairman,[2] after further discussion of the point of order, held:

The Chair thinks it would be a violent presumption to hold that mere authority to issue passports would authorize the creation of a bureau, with employees and office expenses, and therefore the Chair sustains the point of order.

1250. An appropriation for loss on bills of exchange to and from embassies and legations was held to be in order on an appropriation bill.

A provision to be in force "hereafter" was held to involve legislation and ruled out of order on an appropriation bill.

On January 29, 1921,[3] the diplomatic and consular appropriation bill was under consideration in the Committee of the Whole House on the state of the

[1] Third session Sixty-sixth Congress, Record, p. 1278.

[2] Nicholas Longworth, of Ohio, Chairman.

[3] Third session Sixty-sixth Congress, Record, p. 2262.

Union, when Mr. Thomas L. Blanton, of Texas, reserved a point of order on this paragraph:

CONTINGENT EXPENSES, FOREIGN MISSIONS.

To enable the President to provide, at the public expense, all such stationery, blanks, records, and other books, seals, presses, flags, and signs as he shall think necessary for the several embassies and legations in the transaction of their business, and also for rent, repairs, postage, telegrams, furniture, typewriters, including exchange of same, messenger service, compensation of kavasses, guards, dragomans, and porters, including compensation of interpreters, and the compensation of dispatch agents at London, New York, San Francisco, and New Orleans, and for traveling and miscellaneous expenses of embassies and legations, and for printing in the Department of State, and for loss on bills of exchange to and from embassies and legations, including such loss on bills of exchange to officers of the United States Court for China, and payment in advance of subscriptions for newspapers (foreign and domestic) under this appropriation is hereby authorized, $800,000: *Provided,* That hereafter no part of any sum or sums appropriated for contingent expenses, foreign missions, shall be expended for salaries or wages of persons not American citizens performing clerical services, whether officially designated as clerks or not, in any foreign mission.

The Chairman [1] held:

Let me say that it seems to the Chair that the explanation made indicates quite clearly that this is a necessary incident of the legations, no matter in what form it may be, and I think the point of order as against that language is not well taken as it was stated. Of course, the word "hereafter" still carries an objection.

1251. An appropriation for transportation and subsistence of diplomatic and consular officers en route to and from their posts was held to be in order on an appropriation bill.

On January 29, 1921,[2] the diplomatic and consular appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read:

To pay the itemized and verified statements of the actual and necessary expenses of transportation and subsistence, under such regulations as the Secretary of State may prescribe, of diplomatic and consular officers and clerks in embassies, legations, and consulates and their families and effects in going to and returning from their posts, or when traveling under orders of the Secretary of State, but not including any expense incurred in connection with leaves of absence, $300,000.

Mr. Thomas L. Blanton, of Texas, raised a question of order as follows:

Mr. Chairman, I make a point of order against the paragraph because of the inclusion of the following matter, which constitutes new legislation on an appropriation bill without any authority of law therefor, namely, the word "subsistence"; the words "and their families and effects"; and to that part of the amount of the appropriation to cover these unauthorized items where the committee has increased the normal appropriation from $50,000 to $300,000.

In debate, Mr. John Jacob Rogers, of Massachusetts, argued:

Mr. Chairman, this item in identically its present form has been carried in prior appropriation bills, but I make no point of that. The amount is not a Statutory amount, and, as a matter of fact, the size of the item for the last fiscal year was $270,000. The recommendation asks for an increase to $300,000, because a change of administration always involves a very considerable increase in the amount of travel.

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[1] Horace M. Towner, of Iowa. Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 2267.

Dealing with the actual question presented by the point of order, it is contemplated in the law that our officials in the Diplomatic and Consular Service shall be moved from post to post. As the chairman very well knows, our appointments to the Diplomatic and Consular Service are not to a specific post, but as members of a specific class. The Secretary of State has authority, and frequently exercises that authority, to move our diplomatic and consular officers from station to station all over the world. But any increase in class or salary involves a new confirmation by the Senate. An earlier item in this very bill makes provision for the payment of salaries of diplomatic and consular officers while in transit to and from their posts.

In other words, the payment of the travel expense account of members of the Diplomatic and Consular Service seems to me to be one of the necessary incidents of the proper maintenance of the service. I therefore contend the item is in order under prior decisions of the Chair on this bill and on other recent appropriation bills.

The Chairman [1] held that in the absence of any provision of law limiting such payments by the Government, the paragraph was authorized, and overruled the point of order.

1252. An appropriation for the transportation of officers of the United States Court for China was held to be authorized by the organic act creating the court.

On April 7, 1922,[2] the Departments of State and Justice appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. John Jacob Rogers, of Massachusetts, proposed this amendment:

The appropriation of $175,000 for the transportation of diplomatic and consular officers carried elsewhere in this act shall be available for the transportation of the officers of the United States Court for China to the same extent as for the transportation of such diplomatic and consular officers.

Mr. Thomas L. Blanton, of Texas, having made the point of order that the appropriation was not authorized by law, the Chairman [3] ruled:

The Chair thinks the statute contemplates necessary transportation incidental to the appointment of this court, and overrules the point of order.

1253. The reappropriation of an unexpended balance for an object authorized by law may be made on an appropriation bill.

Appropriations for essential and appropriate equipment for transacting official business of authorized governmental agencies are in order on appropriation bills although unauthorized by specific statute.

Hire of a steam launch was held to be a necessary expense incident to maintenance of an embassy at Constantinople, and an appropriation therefor was admitted on an appropriation bill.

On January 29, 1921,[4] the diplomatic and consular appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was read:

The unexpended balance of the appropriation of $1,800 for hiring of steam launch for use of embassy at Constantinople made in the diplomatic and consular appropriation act for the fiscal

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[1] James R. Mann, of Illinois, Chairman.

[2] Second session Sixty-seventh Congress, Record, p. 5196.

[3] Cassius C. Dowell, of Iowa, Chairman.

[4] Third session Sixty-sixth Congress, Record, p. 2267.

year 1921 is reappropriated and made available for the same purpose for the official use of the legation at Constantinople for the fiscal year 1922.

Mr. Thomas L. Blanton, of Texas, made the point of order that there was no law authorizing the expenditure.

Mr. John Jacob Rogers, of Massachusetts, said in debate:

Mr. Chairman, I freely admit that there is no substantive statute upon which this item is based. It has been carried for many years—since 1892, I believe—but I make no point of that. My contention on this item, as on the preceding item and on the contingent-expense item, is that this is a natural and proper instrumentality for carrying on the service of the United States at a particular post. In the case of Constantinople, the summer quarters of the embassy are some distance out in the country.

The climate of that city is such that all the diplomatic representatives of other countries as well as of our own country simply have to get away from the heat and transact their business in the summer at what is called the summer capital of Therapia. The journey to Therapia is necessarily by water. This item would have been in order if carried in the contingent-fund paragraph, and it bears a very close resemblance and analogy to the items which are specifically set forth and held permissible under the contingent fund. I submit to the Chair that there should be no less authority for carrying the item, because we carry it separately, so that the committee may see at once the precise purpose which is contemplated in connection with the use of this $1,800.

The Chairman [1] said:

The Chair thinks that is an incident connected with the embassy quite within the power of Congress to appropriate for without specific authorization, the same as for the purchase of pens and ink, or anything else necessary for the conduct of the embassy. The Chair overrules the point of order.

1254. Provision by law for appointment of an international commission with appropriation for its maintenance for the fiscal year was held not to authorize appropriations for subsequent years.

The title of an act is not law and is not considered in construing its provisions.

On January 29, 1921,[2] the diplomatic and consular appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the question was raised by Mr. Thomas L. Blanton, of Texas, as to authority of law for the following paragraph:

To defray the actual and necessary expenses on the part of the United States section of the Inter-American High Commission arising in such work and investigations as may be approved by the Secretary of the Treasury, $25,000, to be expended under the direction of the Secretary of State.

In support of the paragraph, Mr. John Jacob Rogers, of Massachusetts, submitted:

Mr. Chairman, the authority of law upon which this item is based is an act approved February 7, 1916, which provides for the appointment of delegates, to be known as the United States section of the International High Commission. That same law provides that the delegates shall cooperate with the other sections of the commission in taking action upon the recommendations of the first Pan American financial conference. It is further provided that the President shall fill any vacancies which may occur in the said United States section of the International Commission. This

[1] James R. Mann, of Illinois, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 2278.

is a substantive law and is not merely part of an appropriation act. It seems to me to be ample authority for the continuance of this commission.

The Chairman [1] decided that the law cited provided an appropriation for the year 1916 only, and in the absence of other authorization the proposed expenditure was not in order. He therefore sustained the point of order.

1255. While estimates by Secretary of State of appropriations for acquisition of sites and buildings for diplomatic and consular establishments are provided for by law, the submission of such estimate is not a condition precedent to appropriation by Congress, and an appropriation for which no estimate had been made was held to be in order on an appropriation bill.

On January 29, 1921,[2] the diplomatic and consular appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Nicholas Longworth, of Ohio, offered this amendment:

For the acquisition of land and buildings in Paris, France, to be used as the American Embassy, under the provisions of the act of February 17, 1911, $150,000, or so much thereof as may be necessary.

Mr. James R. Mann, of Illinois, raised a point of order on the amendment.

The Chairman [1] held:

In passing on the point of order, perhaps the Chair should be somewhat specific because the proposition is important, and there is some conflict in the decisions that have been made with regard to it. The contention of the gentlemen from Ohio in regard to the interpretation of the statute, it seems to the Chair, is well founded. This first provision of the act is absolutely without limitation. It states:

"That the Secretary of State be, and he is hereby, authorized to acquire in foreign countries such sites and buildings as may be appropriated for by Congress for the use of the diplomatic and consular establishments of the United States, and to alter, repair, and furnish the said buildings; suitable buildings for this purpose to be either purchased or erected, as to the Secretary of State may seem best, and all buildings so acquired for the Diplomatic Service shall be used both as the residences of diplomatic officials and for the offices of the diplomatic establishment."

That is the positive, affirmative, and material part of the statute. Now, unless that is limited in some way or other by the provisos that have been added, certainly there is ample authority for the committee considering the amendment.

The first proviso is:

"Provided, however, That not more than the sum of $500,000 shall be expended in any fiscal year under the authorization herein made."

That limitation, it would seem, as a matter of fact has not been exceeded, and there are, so far as has been called to the attention of the Chair, no other authorizations for expenditures where the total would exceed the limit of $500,000.

Now we come to the next proviso, which is the difficult proposition involved in this case:

"Provided further, That in submitting estimates of appropriation to the Secretary of the Treasury for transmission to the House of Representatives the Secretary of State shall set forth a limit of cost for the acquisition of sites and buildings and for the construction, alteration, repair, and furnishing of buildings at each place in which the expenditure is proposed (which limit of cost shall not exceed the sum of $150,000 at any one place), and which limit shall not thereafter be exceeded in any case, except by new and express authorization of Congress."

Unless this proviso makes it obligatory before Congress can make the appropriation that the Secretary of State shall submit to the Secretary of the Treasury an estimate, then the limitation

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[1] Horace M. Towner, of Iowa, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 2279.

does not apply in this case. The language used, as the committee will notice, is "that in submitting estimates of appropriation." That is, if estimates are made, they must be made in the manner prescribed.

Of course, the usual method in which these matters are called to the attention of the committee having the matter in charge for consideration is upon estimates furnished by the department. The provision in this act is, in effect, that if an estimate is made by the Secretary of State and transmitted to the Secretary of the Treasury, it shall be done in the manner prescribed. But there is no requirement that such estimate must be made. It is admitted in argument that no such estimate was submitted, and the question is as to whether it could be inferred that such an estimate would be required. The Chair would not be justified in any such inference; and as the language does not specifically state that it is a prerequisite, and does not specifically state that the appropriation must not be made until such estimate has been made, the Chair thinks it is perfectly within the right of the committee to consider the amendment, and the point of order is overruled.

1256. Appropriations for the annual quota of the United States in support of the International Trade-Mark Bureau and the International Hydrographic Bureau were held not to be authorized by existing law.

On April 7, 1922,[1] the Departments of State and Justice appropriation bill was under consideration in the Committee of the Whole House on the state of the Union when the following paragraph was read:

For the annual share of the United States for the expenses of the maintenance of the International Trade-Mark Registration Bureau at Habana, including salaries of the director and counselor, assistant director and counselor, clerks, translators, secretary to the director, stenographers and typewriters, messenger, watchmen, and laborers, rent of quarters, stationery and supplies, including the purchase of books, postage, traveling expenses, and the cost of printing the bulletin, $9,600.

A point of order that there was no authorization of law, made by Mr. Thomas L. Blanton, of Texas, was sustained by the Chairman.[2]

A similar provision for the maintenance of the International Hydrographic Bureau was also ruled out by the Chairman on a point of order presented by Mr. Blanton.

1257. An appropriation for commercial attachés to be appointed by the Secretary of Commerce was held by the House to be authorized by the organic law creating the Department of Commerce.[3]

On March 2, 1920,[4] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Thomas U. Sisson, of Mississippi, offered the following amendment:

Commercial attachés: For commercial attachés, to be appointed by the Secretary of Commerce, after examination to be held under his direction to determine their competency, and to be accredited through the State Department, whose duties shall be to investigate and report upon such conditions in the manufacturing industries and trade of foreign countries as may be of interest to the United States; and for one clerk to each of said commercial attachés to be paid a salary not to exceed $1,500 each and for necessary traveling and subsistence expenses of officers, rent outside of the District of Columbia, purchase of reports, books of reference, and periodicals, travel to and from the United States, exchange on official checks, and all other necessary expenses

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[1] Second session Sixty-seventh Congress, Record, p. 5196.

[2] Cassius C. Dowell, of Iowa, Chairman.

[3] Now specifically authorized by the act of March 3, 1927, 44 Stat. L., p. 1394.

[4] Second session Sixty-sixth Congress, Record, p. 3771.

not including in the foregoing; such commercial attachés shall serve directly under the Secretary of Commerce and shall report directly to him, $165,000.

Mr. William R. Wood, of Indiana, having lodged a point of order against the amendment, Mr. Sisson said:

Mr. Chairman, it is our contention that under the act creating the Department of Commerce, these powers were granted the Commerce Department, as such promoting the development of foreign and domestic commerce. Section 670 of that act, under the head of "Powers and duties of the department," reads as follows:

"SEC. 3. That it shall be the province and duty of said department to foster, promote, and develop the foreign and domestic commerce, the mining, manufacturing, shipping, and fishery industries, the labor interests, and the transportation facilities of the United States; and to this end it shall be vested with jurisdiction and control of the departments, bureaus, offices, and branches of the public service hereinafter specified, and with such other powers and duties as may be prescribed by law."

Now, when this bureau was created the Department of Commerce had in it the Department of Labor. The act which separated the Department of Labor from the Department of Commerce left the Department of Commerce with all powers over commerce enumerated in this act. Therefore, if in the judgment of Congress it is necessary to promote foreign commerce and foreign trade by commercial attachés, Congress has that right under this legislation.

In reply, Mr. Wood cited a decision on a similar point of order arising on April 14, 1914.

After further debate, the Chairman [1] ruled:

The Chair has been impressed with the force of the arguments that this proposed provision offered as an amendment is in order on account of the very broad jurisdiction and discretion granted in the act creating the Department of Commerce. The Chair, if this came to him in the first instance, would hesitate considerably about holding such an amendment to be out of order. However, the Chair is confronted by the precedent referred to by the gentleman from Indiana which is absolutely in point. At that time it was offered to insert in this bill a provision precisely similar to that just now offered by the gentleman from Mississippi, excepting only that the amount appropriated was $100,000 instead of $165,000. It was sought to justify it on the ground of the very broad field of the organic law, just as it is here. But the gentleman from Illinois, Mr. Henry T. Rainey, a very excellent parliamentarian, made the point of order, and during the course of his argument laid stress upon the overlapping of this jurisdiction between the State Department and the Department of Commerce. The gentleman from Illinois said:

"The act creating the Department of Commerce does not authorize the creation of new consular agents in a new manner, but it simply authorizes the Secretary of Commerce to collect commercial data at home and abroad in various ways and through our commercial agents abroad. But our commercial agents and attachés abroad are required by the act to report directly to the Secretary of State, and through the Secretary of State the reports may be transmitted to the Secretary of Commerce. This is clearly new legislation and it is contrary to the existing law. I am compelled to make the point of order."

The Chair promptly sustained the point of order.

The situation to-day is precisely what it was then, and while the Chair admits that he would be in some doubt if this matter came before him as a new proposition, yet in view of the only precedent directly controlling, namely, that just cited, the Chair is compelled to sustain the point of order.

Mr. Sisson thereupon appealed from the decision of the Chair. The Chairman having called to the chair Mr. James R. Mann, of Illinois, the question was taken

[1] Nicholas Longworth, of Ohio, Chairman.

by tellers and was decided in the negative—yeas 63, nays 105. So the decision of the Chair was not sustained and the amendment was held to be authorized by law.

1258. An appropriation for purchase of vessels generally for the Lighthouse Service was held not to be authorized by statutory provision for purchase of a specified class of vessels for the Lighthouse Service.

On January 6, 1921,[1] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Lighthouse vessels, general service: Constructing or purchasing and equipping lighthouse tenders and light vessels for the Lighthouse Service, $1,000,000.

Mr. James R. Mann, of Illinois, made the point of order that there was no authority for the provision:

The Chairman[2] said:

The Chair will state that on June 5, 1920, the House passed an act to authorize aids to navigation and other work of the Lighthouse Service. It carried an authorization "for constructing or purchasing and equipping lighthouse tenders and light vessels for the Lighthouse Service, $5,000,000." Then, there was a proviso that the Secretary of War and the Secretary of the Navy and the Shipping Board shall report to the Secretary of Commerce such vessels as they might have which they were willing to dispose of, and which, with reasonable alteration, could be restored and utilized for the purpose of the Lighthouse Service in the Department of Commerce, and the sum authorized shall be available for such repairs and reduced by the sum saved by the use of such vessels. The language of the paragraph to which the gentleman from Illinois makes the point of order is a new authorization, apparently. It is not confined to the authorization contained in the provisions of the previous act, nor does it refer to it in any way. In the view of the Chair it permits the expenditure of this $1,000,000 for the construction, equipment, or purchase of lighthouse tenders outside of the authorization contained in the act of June 5, 1920, and the Chair sustains the point of order.

1259. Authorization of an appropriation for an investigation is not construed to include authorization of an appropriation for demonstrating results of such investigation.

An appropriation for demonstrating uses of fish as food was held not to be authorized by the organic act creating the Bureau of Fisheries.

On January 6, 1921,[3] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. John E. Raker, of California, offered an amendment as a new paragraph as follows:

For the conduct of demonstrations and imparting of instruction in correct, cheap, and wholesome methods of preparing and cooking fish, including the payment of salaries and traveling expenses and the purchase of materials and supplies, $15,000.

In rebutting a point of order made by Mr. James R. Mann, of Illinois, that the proposed appropriation was unauthorized, Mr. Raker contended that it was sanctioned by the organic act creating the Bureau of Fisheries and authorizing investigations.

After debate, the Chairman[2] overruled Mr. Raker's contention and sustained the point of order.

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[1] Third session Sixty-sixth Congress, Record, p. 1060.

[2] Joseph Walsh, of Massachusetts, Chairman.

[3] Third session Sixty-sixth Congress, Record, p. 1064.

1260. An appropriation for investigations in cooperation with industries of problems in industrial development was held to be authorized by the organic law creating the Bureau of Standards.

On May 24, 1921,[1] the second deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read:

For technical investigations in cooperation with the industries upon fundamental problems involved in industrial development following the war, with a view to assisting in the permanent establishment of the new American industries developed during the war, including personal services in the District of Columbia and elsewhere, $100,000.

Mr. Otis Wingo, of Arkansas, raised a question of order as to authority of law for the appropriation.

The Chairman[2] held:

The decisions of the Chair enlarging the activities of the Department of Agriculture and all departments of the Government, including the Departments of Commerce and Labor, have under the general authority, which is very sweeping in the creation of this department, held in order items for activities of this kind in appropriation bills. This item comes within the general scope of the activities of the Bureau of Standards, which are as follows:

"The functions of the bureau shall consist in the custody of the standards; the comparison of the standards used in scientific investigations, engineering, manufacturing, commerce, and educational institutions with the standards adopted or recognized by the Governments; the construction, when necessary, of standards, their multiples and subdivisions; the testing and calibration of standard measuring apparatus; the solution of problems which arise in connection with standards; the determination of physical constants and the properties and materials, when such data are of great importance to scientific or manufacturing interests and are not to be obtained of sufficient accuracy elsewhere. The bureau shall exercise its functions for the Government of the United States, for any State or municipal government within the United States, or for any scientific society, educational institution, firm, corporation, or individual within the United States engaged in manufacturing or other pursuits requiring the use of standards or standard measuring instruments."

It provides for doing that for which the Bureau of Standards was created and simply appropriates for the activity, and the Chair overrules the point of order.

1261. An appropriation for promotion of commerce in the Far East was held to be authorized by organic law establishing the Department of Commerce.

On January 23, 1925,[3] the Departments of State, Justice, Commerce, and Labor appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read:

Promoting commerce in the Far East: To further promote and develop the commerce of the United States with the Far East, including personal services in the District of Columbia and elsewhere, purchase of furniture and equipment, stationery and supplies, typewriting, adding and computing machines, accessories and repairs, books of reference and periodicals, reports, documents, plans, specifications, manuscripts, maps, newspapers (both foreign and domestic) not exceeding $400, and all other publications, rent outside of the District of Columbia, traveling and subsistence expenses of officers and employees, and all other incidental expenses not included in the foregoing, to be expended under the direction of the Secretary of Commerce, $243,734.

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[1] First session Sixty-seventh Congress, Record, p. 1715.

[2] Philip P. Campbell, of Kansas, Chairman.

[3] Second session Sixty-eighth Congress, Record, p. 2396.

Mr. Thomas L. Blanton, of Texas, made the point of order that there was no law authorizing the expenditure.

The Chairman [1] ruled:

It seems from a reading of the organic law that it is provided that the bureau can carry on these general activities at various places. The Chair finds a direct ruling by Chairman Campbell when the gentleman from Texas made the same point of order, and the Chair at that time overruled his point of order. The point of order is overruled at the present time.

1262. Where the organic act creating a department provides for certain definite activities it is in order on a general appropriation bill to appropriate for such activities.

An appropriation for investigation of infant mortality and dangerous occupations was held to be authorized by law.

On April 14, 1914,[2] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. James W. Good, of Iowa, offered as a new paragraph the following:

To carry into effect the provisions of the act approved April 9, 1912, providing for the investigation of questions of infant mortality and dangerous occupations, $50,000.

Mr. Joseph T. Johnson, of South Carolina, having raised a question of order, Mr. Good said:

Mr. Chairman, clearly the amendment is not subject to a point of order. I have followed the words of the statute creating the Children's Bureau. I have followed the provision carried in this bill for a number of years with regard to the Bureau of Standards. Every item that we have carried in the appropriations for the work done by the Bureau of Standards would be subject to a point of order if the provisions of this amendment are subject to a point of order. The law creating the Children's Bureau provides that it shall especially investigate—and I quote the words of that statute—

"And shall especially investigate the questions of infant mortality"—

And further on—

"Dangerous occupations."

Those are the exact words of the statute, and no amendment could be offered, and no provision could be brought before the House by the committee that would be in order if this provision is not in order. It is to carry into effect those things that were specially provided for, the things that were particularly in the mind of Congress when the bureau was created, namely, to investigate the question of infant mortality and of dangerous occupations.

After further debate, the Chairman [3] overruled the point of order.

1263. On December 16, 1916,[4] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. James W. Good, of Iowa, proposed this amendment as a new paragraph:

To investigate and report upon matters pertaining to the welfare of children and child life, and especially to investigate the question of infant mortality, $72,120.

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[1] Bertrand H. Snell, of New York, Chairman.

[2] Second session Sixty-third Congress, Record, p. 6713.

[3] John N. Garner, of Texas, Chairman.

[4] Second session Sixty-fourth Congress, Record, p. 449.

Mr. Joseph W. Byrns, of Tennessee, made the point of order that the amendment was not authorized by law.

The Chairman [1] ruled:

The Chair thinks it is not the province of the Chair to pass upon the effect of the appropriation. The law of 1912 was passed on by Chairman Garner in 1914, and the Chair thinks the point of order is not well taken, and overrules the point of order.

1264. The general statement of purpose for which a department is established, as set forth in the organic act creating it, is not to be construed as authorization for appropriations not specifically provided for in succeeding sections of the act providing for bureaus designated to carry out the declaration of purpose.

An appropriation to enable the Secretary of Labor to advance opportunities for profitable employment of wage earners was held not to be in order on an appropriation bill.

On February 28, 1919,[2] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. James A. Gallivan, of Massachusetts, offered the following amendment as a new section:

To enable the Secretary of Labor to advance the opportunities for profitable employment of the wage earners of the United States there is hereby appropriated out of available money in the Treasury, $10,033,808.10.

Mr. Thomas L. Blanton, of Texas, and Mr. Norman J. Gould, of New York, raised the point of order on the amendment.

Mr. Gallivan submitted the statement of purpose of the organic act creating the Department of Labor as sufficient authorization for the appropriation.

Mr. James F. Byrnes, of South Carolina, argued that the statement was merely an introductory declaration of purpose and the authorizations of the act were contained in subsequent sections providing for the various bureaus necessary to carry out this declaration and as these sections made no mention of the purpose for which the amendment sought to appropriate, the amendment was unauthorized.

After extended debate, the Chairman [3] ruled:

The gentleman from Massachusetts offers an amendment to insert a new section, as follows:

"To enable the Secretary of Labor to advance the opportunities for profitable employment of the wage earners of the United States there is hereby appropriated out of available moneys in the Treasury $10,023,000"—

And so forth.

To that amendment the gentleman from Texas and the gentleman from New York make the point of order. Arguing the point of order, gentlemen who have discussed it cited certain language in the organic act which created the Department of Labor. That language is:

"The duties of the Department of Labor shall be to foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment."

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[1] Pat Harrison, of Mississippi, Chairman.

[2] Third session Sixty-fifth Congress, Record, p. 4664.

[3] John N. Garner, of Texas, Chairman.

That language is relied upon, as the Chair understands, to make this amendment in order. The House has always been extremely careful in conferring the legislative power upon committees; at least it has been so for 50 years. It has withheld from the Committee on Appropriations any power of legislation, and, naturally, having withheld that power, it has provided that no amendment to an appropriation bill if it carried legislation should be in order if offered on the floor of the House. This is very peculiar language as contained in this organic act. If the Committee on Appropriations could have rightfully brought in a proposition such as is contained in the amendment of the gentleman from Massachusetts, and, of course, if it could not, an amendment from the floor of the House would be subject to the point of order. The Chair is unable to see where the limit on the Committee on Appropriations would end. If this—like the whereas of a resolution—should be held to authorize appropriations by the Committee on Appropriations, there is absolutely no limitation that you could put upon your Committee on Appropriations.

And, of course, if the Appropriations Committee could bring in a proposition, any amendment from the floor would be in order. The Chair thinks this amendment that is offered by the gentleman from Massachusetts makes new legislation, not authorized by any existing law, and that therefore it is obnoxious to the rule of the House. Therefore, the Chair sustains the point of order.

Mr. Gallivan having appealed, the decision of the Chair was sustained, yeas 114, noes 58.

Thereupon Mr. Meyer London, of New York, offered the following amendment:

For the purpose of continuing the present system of unemployment exchanges, $10,000,000.

Mr. Blanton having again raised the point of order, the Chairman [1] held:

The amendment offered by the gentleman from New York reads as follows:

"For the purpose of continuing the present system of unemployment exchanges, $10,000,000."

All that has been cited is the very language that was cited in the argument upon the amendment offered by the gentleman from Massachusetts. No statute has been directed to the attention of the Chair other than the general language upon which the Chair undertook to pass. The Chair thinks it stands exactly as the other amendment stood, and sustains the point of order.

Mr. Perl D. Decker, of Missouri, then proposed this amendment:

For expenses of Department of Labor, made necessary by the act of March 4, 1913, entitled "An act to create a Department of Labor," $10,000,000.

Mr. Blanton renewed the point of order. The Chairman having sustained the point of order for the reasons previously given, Mr. Decker appealed from the decision of the Chair. The question being taken, was decided in the affirmative, yeas 106, nays 33, and the decision of the Chair stood as the judgment of the committee.

1265. Statements of purpose embodied in the organic act creating the Department of Labor were held not to authorize appropriations for establishment of an employment service.

On January 6, 1921,[2] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

EMPLOYMENT SERVICE.

To enable the Secretary of Labor to foster, promote, to develop the welfare of the wage earners of the United States, to improve their working conditions, to advance their opportuni-

[1] Finis J. Garrett, of Tennessee, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 1078.

ties for profitable employment by maintaining a national system of employment offices and to coordinate the public employment offices throughout the country by furnishing and publishing information as to opportunities for employment and by maintaining a system for clearing labor between the several States, including personal services in the District of Columbia and elsewhere, and for their actual necessary traveling expenses while absent from their official station, together with their per diem in lieu of subsistence, when allowed pursuant to section 13 of the sundry civil appropriation act approved August 1, 1914, supplies and equipment, telegraph and telephone service, and printing and binding, $250,000.

Mr. Thomas L. Blanton, of Texas, made the point of order that there was no authority of law for the expenditure.

The Chairman [1] said:

The Chair appreciates that some points of order can be determined a little quicker than others, especially when the precedents are immediately at hand and the Chair has had his attention directed to the fact that this identical language was in the bill which was under consideration on the 11th day of May, 1920, when a point of order was made. The point of order was sustained on the ground that the language of the paragraph went beyond the authority of the act creating the Department of Labor, and that previously a similar paragraph, somewhat broader in scope, however, was included in a bill under consideration in a previous Congress and was held out of order, and in view of those precedents the Chair sustains the point of order.

1266. An appropriation for "other needed work and improvement" was held to be sanctioned by law authorizing the service for which proposed.

On January 6, 1921,[2] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, and the section providing for the immigrant station at Ellis Island had been reached, when Mr. Adolph J. Sabath, of Illinois, offered this amendment:

And for other needed work and improvements; in all, $250,000.

Mr. Thomas L. Blanton, of Texas, having raised a question of order as to authorization, the Chairman [3] decided:

The Chair thinks that the language "and for other needed work and improvement" would mean that within previous authorizations or within the provisions of existing law, and that it would not permit anything that is unauthorized by law. The Chair, therefore, overrules the point of order.

1267. The enactment establishing an institution was held not to authorize construction of a new building therein.

Law limiting the labor of inmates to duties necessary for the construction and maintenance of an institution was held not to authorize an appropriation for construction of additional buildings for the institution.

On February 26, 1927,[3] the Committee of the Whole House on the state of the Union was considering the second deficiency appropriation bill, when the Clerk read:

United States Industrial Reformatory, Chillicothe, Ohio: Not to exceed $100,000 of the appropriation "United States Industrial Reformatory, Chillicothe, Ohio, 1927," shall remain

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[1] Joseph Walsh, of Massachusetts, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 1069.

[3] Second session Sixty-ninth Congress, Record, p. 4942.

available until June 30, 1928, for the erection of dryers, kilns, and other buildings, purchase and installation of machinery, supplies, and equipment, and all other expenses necessary and incident to the construction of a plant to manufacture brick to be used in constructing such reformatory and other Federal buildings.

Mr. Thomas A. Jenkins, of Ohio, made the point of order that the appropriation was unauthorized.

Mr. Louis C. Cramton, of Michigan, opposed the point of order and submitted as authorizing the appropriation, the act of January 7, 1925, establishing the Chillicothe Reformatory, as follows:

The Attorney General shall employ the labor of such United States prisoners confined in the United States Penitentiary at Atlanta, Ga., * * * who are eligible for confinement in such United States industrial reformatory under the provisions of this act and who can be used under proper guard in the work necessary to construct the buildings.

Also section 6 of the act:

That the inmates of the United States Industrial Reformatory shall be employed only in the production and manufacture of supplies for the United States Government for consumption in the United States institutions and in duties necessary for the construction and maintenance of the institution.

The Chairman [1] ruled:

Here is a proposition, as stated in this paragraph, to build a complete plant, including driers, kilns, and other buildings, machinery, supplies, and equipment, and all other expenses incident to the construction of a plant to manufacture brick to be used in constructing such reformatory and other Federal buildings. Under the law it can not be maintained that there is any express authority given for the construction of the building.

There is, however, a claim that there is an implied authority to construct a building in the provision establishing the institution. It is quite evident that the framers of the statute contemplated that a building might be erected. Of course, if Congress were to authorize the purchase of a site, the site was necessarily purchased under the expectation that Congress would sometime authorize a building, but nobody would contend that because a site was provided for, the construction of a building was authorized. The provision in the law as to what kind of labor should be used did not authorize the construction of buildings. Altogether it seems to the Chair that the point of order ought to be sustained, and so rules.

1268. An appropriation for compensation of temporary employees to be fixed by the Executive was held to be authorized by law.

On January 30, 1920,[2] the second deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

OFFICE OF AUDITOR FOR TREASURY DEPARTMENT.

For compensation to be fixed by the Secretary of the Treasury, of such temporary employees (non-apportioned) as may be necessary to audit the accounts and vouchers of the bureaus and offices of the Treasury Department, $25,000.

Mr. Thomas L. Blanton, of Texas, made the point of order that there was no authority of law for the provision.

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[1] William R. Green, of Iowa, Chairman.

[2] Second session Sixty-sixth Congress, Record, p. 2264.

The Chairman [1] ruled:

Section 169 of the Revised Statutes provides:

"Each head of a department is authorized to employ in his department such number of clerks of the several classes recognized by law, and such messengers, assistant messengers, copyists, watchmen, laborers, and other employees, and at such rates of compensation, respectively, as may be appropriated for by Congress from year to year."

A case in point was raised in the House on March 23, 1906. The legislative appropriation bill was under consideration in Committee of the Whole House on the state of the Union, and Mr. Hardwick, of Georgia, made a point of order that there was no law to authorize the proposed appropriation for one telephone switchboard operator in the Department of State. After debate the Chairman of the committee, Mr. Hopkins, of Illinois, held that "a telephone switchboard operator may be fairly classed as a sort of laborer, skilled laborer, within the spirit of the statute."

The Chair is of opinion that this case is covered by the law and that the appropriation is authorized by section 169 of the statute. The statute does not say permanent or temporary, but "such other employees as may be appropriated for by Congress from time to time."

1269. Legislation unobjected to and admitted on general appropriation bills may authorize appropriations in future bills.

An appropriation for maintenance of an assay office permanently established by law was held to be in order on an appropriation bill.

On January 12, 1921,[2] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. Harry L. Gandy, of South Dakota, offered the following amendment:

Insert as a new paragraph:

"Deadwood, S. Dak., assay office: Assayer in charge, who shall also perform the duties of melter, $1,800; assistant assayer, $1,200; clerk, $1,000; in all, $4,000. For wages of workmen and other employees, $2,000, and for incidental and contingent expenses, $1,200."

A point of order being made by Mr. Thomas L. Blanton, of Texas, Mr. William R. Wood, of Indiana, said:

Mr. Chairman, my opinion is that its original authorization was in an appropriation bill. I call the attention of the Chair to the United States Compiled Statutes, 1918, section 6427, which reads:

"Assay office at Deadwood, S. Dak.: For establishing an assay office at Deadwood, in the State of South Dakota."

Then, section 6428 reads as follows:

"Assay office at Deadwood, S. Dak.: * * * and said assay office shall be conducted under the provisions of the act entitled 'An act revising and amending the laws relative to the mints, assay offices, and coinage of the United States,' approved February 12, 1873."

The Chairman [3] held:

In view of the citation of the gentleman from Indiana, the Chair is inclined to think that this is authorized by law. That provides for an assay office. The Chair thinks the amendment is in order and overrules the point of order.

1270. Provision for the collection and dissemination of information to encourage law enforcement was held not to be in order on an appropriation bill.

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 1332.

[3] Nicholas Longworth, of Ohio, Chairman.

On December 5, 1930,[1] during consideration of the Treasury and Post Office appropriation bill in the Committee of the Whole House on the state of the Union, the Clerk read the paragraph providing for the Bureau of Industrial Alcohol and including the following:

Provided, That not exceeding $10,000 may be expended for the collection and dissemination of information and appeal for law observance and law enforcement, including cost of printing, purchase of newspapers, and other necessary expenses in connection therewith.

Mr. Thomas L. Blanton, of Texas, raised the question of authorization.

The Chairman[2] sustained the point of order.

1271. While the fortifications appropriation bill carried general appropriations for a plan of work in progress, specific appropriations for individual works not authorized by law and not in progress were held not to be in order thereon.

On February 27, 1912,[3] the fortifications appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. E. E. Holland, of Virginia, offered this amendment:

Add an independent section as follows:

"For the purchase, if a satisfactory price can be agreed upon between the Secretary of War and the owners thereof, and if this can not be done, then for the acquisition by condemnation proceedings, which the Secretary of War is authorized to cause to be instituted, of a sufficient quantity of land at Cape Henry, Va., on which to begin the construction of fortifications at the mouth of Chesapeake Bay, and a sum not exceeding $150,000 is hereby appropriated."

Mr. John J. Fitzgerald, of New York, made the point of order against the amendment that it was not authorized by law.

After extended debate, the Chairman[4] read from section 3611 of Hinds' Precedents and sustained the point of order.

1272. The statute prohibiting purchase of land except by authority of law was held not to apply to a purchase of land for aviation stations, such purchase being authorized by law.

The reappropriation of an unexpended balance for acquisition of land for aviation stations was held to be authorized by law.

A provision making an appropriation available beyond the fiscal year supplied by the pending bill was held to be legislation and not in order on an appropriation bill.

On April 13, 1920,[5] the fortifications appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. John J. Eagan, of New Jersey, proposed this amendment:

Insert a new paragraph, as follows:

"The sum of $9,617,179.38 of appropriations heretofore made for aviation purposes for use in connection with the seacoast defenses of the United States is hereby continued and made

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[1] Third session Seventy-first Congress, Record, p. 265.

[2] Earl C. Michener, of Michigan, Chairman.

[3] Second session Sixty-second Congress, Record, p. 2521.

[4] William C. Houston, of Tennessee, Chairman.

[5] Second session Sixty-sixth Congress, Record, p. 5633.

available for obligation until June 30, 1922, and the Secretary of War may expend from said sum $596,725, or so much thereof as may be necessary, for the purchase or acquisition of land necessary for aviation stations for use in connection with the coast defenses within the continental limits of the United States."

Mr. Joseph Walsh, of Massachusetts, raised a point of order on the clause making the appropriation available until 1922.

The Chairman [1] having sustained the point of order, Mr. Eagan again offered the amendment changing the date from 1922 to 1921.

Mr. James W. Good, of Iowa, raised the question of authorization, and further submitted that the provision for purchasing land was in contravention of the statute: [2]

No land shall be purchased on account of the United States except under a law authorizing such purchase.

The Chairman ruled:

Under the war legislation of August 29, 1916, and other acts that followed the Secretary of War was given the broadest possible power to acquire by purchase, condemnation, or otherwise for the United States such land as might be necessary for aviation purposes. Those general statutes have not been repealed. That war power is still lodged in the Secretary of War. In recognition of such power Congress adopted different aviation projects, and this amendment proposes to continue one or more of these projects, and therefore the Chair feels constrained to rule that the amendment proposes expenditure for a purpose authorized by law and is not subject to a point of order. The Chair therefore overrules the point of order.

1273. The organic law creating a department authorizes necessary contingent expenses incident to its maintenance.

On February 13, 1919,[3] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

For contingent expenses of the Military Intelligence Division, General Staff Corps, including the purchase of law books, professional books of reference; subscription to newspapers and periodicals; drafting and messenger service; and of the military attachés at the United States embassies and legations abroad; the cost of special instruction at home and abroad, and in maintenance of students and attachés; and for such other purposes as the Secretary of War may deem proper; to be expended under the direction of the Secretary of War, $200,000.

Mr. Otis Wingo, of Arkansas, raised a question of order as to its authorization.

In debate, Mr. James R. Mann, of Illinois, said:

There are a number of items that are clearly subject to a point of order in the bill; but this is an appropriation for the maintenance of the Army. Now, everyone knows that every department of the Government must necessarily have various contingent expenses. And the creation of the department itself is, in my judgment, a sufficient warrant for an appropriation for the contingent expenses. It would be ridiculous, Mr. Chairman, to say that when we created a department or provided an army we should in detail describe the character of the buttons that the men had to wear. It would be ridiculous to say that we can not appropriate for buttons because it is not authorized by law. Buttons are no more authorized by law than many various other contingent expenses necessary for the Army, which no one can foresee, in many cases, in advance.

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[1] Rollin B. Sanford, of New York, Chairman.

[2] Rev. Stat., sec. 3736.

[3] Third session Sixty-fifth Congress, Record, p. 3309.

Here is a provision which provides for the payment of contingent expenses of officers of the Army abroad under proper provision of law. I do not see how the gentleman can contend we can not make an appropriation for the contingent expenses.

The Chairman [1] ruled:

If a particular Army officer, drawing an Army salary, is assigned to do a particular work, and in connection with that work incurs certain expenses, the Chair can not see why that is not an appropriate Army expense, to be paid out of the contingent allowance for Army expenses. So far as the Chair has been furnished with any information, it has been of an argumentative character; and, dealing with that, the Chair thinks this is clearly an Army expense, and the Chair overrules the point of order.

1274. Directions to the Secretary of War to issue stores and material to the National Guard is authorized by law.

On May 17, 1932,[2] while the Army appropriation bill was being considered in the Committee of the Whole House on the state of the Union, the Clerk read a paragraph containing this proviso:

Provided, That the Secretary of War is hereby directed to issue from surplus or reserve stores and material on hand and purchased for the United States Army such articles of clothing and equipment and Field Artillery, Engineer, and Signal material and ammunition as may be needed by the National Guard. This issue shall be made without charge against militia appropriations except for actual expenses incident to such issue.

Mr. Edward W. Goss, of Connecticut, made the point of order that there was no authority of law for the provision.

The Chairman [3] cited section 32 of title 44 of the United States Code as authority for the provision and overruled the point of order.

1275. The maintenance of students and attachés was held not to be a necessary incidental departmental expense and therefore unauthorized by the organic act creating the department.

Those upholding an item in an appropriation bill have the burden of showing the law authorizing it.

On February 13, 1919,[4] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

The cost of special instruction at home and abroad, and in maintenance of students and attachés.

Mr. Otis Wingo, of Arkansas, made the point of order that there was no authority for the provision.

The Chairman [1] said:

The Chair will ask the chairman of the Committee on Military Affairs to answer this question: Can he refer the Chair to some authority which justifies this item? The point of order has been made, and the burden is upon the chairman of the committee to refer the Chair to some authority that supports it.

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[1] Edward W. Saunders, of Virginia, Chairman.

[2] First session Seventy-second Congress, Record, p. 10465.

[3] Fritz G. Lanham, of Texas, Chairman.

[4] Third session Sixty-fifth Congress, Record, p. 3310.

No citation to such authority being submitted, the Chairman sustained the point of order.

1276. A question of authorization being raised against an item in an appropriation bill, it is incumbent upon the Member in charge of the bill to submit citation of authority.

A provision in permanent law authorizing establishment of rifle ranges open to "all able-bodied males capable of bearing arms" authorizes an appropriation for "transportation of instructors of employees and civilians engaged in target practice."

An appropriation made "available until expended" is in the nature of legislation and not in order on a general appropriation bill.

A point of order being made against an entire paragraph, the whole of it must go out, although a portion only is subject to the objection.

On February 15, 1919,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was read:

To establish and maintain indoor and outdoor rifle ranges for the use of all able-bodied males capable of bearing arms, under reasonable regulations to be prescribed by the National Board for Promotion of Rifle Practice and approved by the Secretary of War; for the employment of labor in connection with the establishment of outdoor and indoor rifle ranges, including labor in operating targets; for the employment of instructors, for clerical services; for badges and other insignia; for the transportation of employees, instructors, and civilians to engage in practice; for the purchase of materials, supplies, and services, and for expenses incidental to instruction of citizens of the United States in marksmanship, to be expended under the direction of the Secretary of War and remain available until expended, $10,000.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the language "and remain available until expended" was legislation.

Mr. James C. McLaughlin, of Michigan, raised the question of authorization against the entire paragraph.

Mr. Hubert S. Dent, jr., of Alabama, in charge of the bill, having conceded the first point of order, the Chairman[2] said:

The gentleman from Michigan makes the point of order to the whole paragraph. If the language cited by the gentleman from Massachusetts is subject to a point of order, then the point of order made by the gentleman from Michigan to the entire paragraph is good. It is a familiar principle in our parliamentary procedure that if any part of a paragraph is out of order a point of order directed to the entire paragraph must be sustained.

Mr. Dent maintained there was law for the appropriation but submitted no citation.

The Chairman ruled:

When a point of order is made to a provision it is incumbent upon the chairman of the committee to furnish the authority. The Chair is seeking to point out that the gentleman from Michigan has directed a point of order to the entire paragraph, and if there is an appending item in the paragraph the point of order applies to the whole paragraph. Hence nothing remains in that case for the Chair but to sustain the point of order of the gentleman from Michigan. Of

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[1] Third session Sixty-fifth Congress, Record, p. 3494.

[2] Edward W. Saunders, of Virginia, Chairman.

course, it will then be competent for the chairman of the committee to offer the paragraph with the offending matter stricken out as an amendment to the bill.

Whereupon Mr. Dent offered the following amendment:

To establish and maintain indoor and outdoor rifle ranges for the use of all able-bodied males capable of bearing arms, under reasonable regulations to be prescribed by the National Board for Promotion of Rifle Practice and approved by the Secretary of War, $10,000.

Mr. McLaughlin renewed the point of order.

After debate, the Chairman said:

The Chair will read the provision of the national defense act on which this provision in the bill is based:

"SEC. 113. Encouragement of rifle practice.—The Secretary of War shall annually submit to Congress recommendations and estimates for the establishment and maintenance of indoor and outdoor rifle ranges, under such a comprehensive plan as will ultimately result in providing adequate facilities for rifle practice in all sections of the country. And that all ranges so established and all ranges which may have already been constructed, in whole or in part, with funds provided by Congress shall be open for use by those in any branch of the military or naval service of the United States and by all able-bodied males capable of bearing arms, under reasonable regulations to be prescribed by the controlling authorities and approved by the Secretary of War. That the President may detail capable officers and noncommissioned officers of the Regular Army and National Guard to duty at such ranges as instructors for the purpose of training the citizenry in the use of the military arm. Where rifle ranges shall have been so established and instructors assigned to duty thereat, the Secretary of War shall be authorized to provide for the issue of a reasonable number of standard military rifles and such quantities of ammunition as may be available for use in conducting such rifle practice."

The Chair will call the attention of the committee to the fact that the language read is very comprehensive. The point of order raised by the gentleman from Michigan is not without difficulty, but the language cited is so sweeping that the Chair will not undertake to say that the details contained in the appropriation bill are outside the scope of the act, reasonably construed. With some hesitation the Chair overrules the point or order.

1277. A statute general in form authorizing salaries is superseded by a subsequent statute specifying the personnel to be paid, and an appropriation for salaries of others than those specified is not in order.

On February 17, 1920,[1] the Military Academy appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a point of order was made by Mr. Edward C. Little, of Kansas, against this paragraph:

For pay of three battalion commanders (majors) in addition to pay as captains, $1,800.

After debate, the Chairman[2] held:

The gentleman from Kansas makes the point of order against the paragraph, beginning with line 23, on page 2, that the paragraph is not in order under subdivision 2, Rule XXI, on the ground that there is no authority of law for this item. It is not for the Chair to pass upon the desirability of this provision of the bill, or necessarily upon its effect upon the conduct of the Military Academy. If there are defects in the law, the Committee on Military Affairs may remove those defects by appropriate legislation, but in an appropriation bill you must show some authority. That is the clear intendment of the rule. It is not necessarily specific authority, it may be general, but it must be one or the other. Now, the committee refers to a statute general in form enacted many years ago which places the supervision and charge of the academy in the War Department

[1] Second session Sixty-sixth Congress, Record, p. 3023.

[2] James W. Husted, of New York, Chairman.

under such officers as the Secretary of War may assign to that duty, but there is a subsequent statute which has been referred to which specifically sets forth the personnel at the academy, the number of officers, professors, etc., and the Chair has been unable to find and the committee has not referred the Chair to any statute which authorizes the appointment of three battalion commanders at the academy. The Chair is therefore constrained to rule that there is no existing law authorizing this appropriation, and therefore sustains the point of order.

1278. An appropriation of land for aviation purposes was held to be authorized by law.

On April 15, 1920,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

For the establishment, enlargement, and improvement of public buildings and facilities at aviation stations, schools, and depots, $245,000.

Mr. W. Frank James, of Michigan, offered the following amendment:

For the acquisition, by purchase, condemnation, or otherwise, of 640 acres of land more or less and the appurtenances thereunto belonging, situate in Macomb County, State of Michigan, now occupied by the Air Service of the Army as an aviation station and known as Selfridge Field, not to exceed $190,000.

Mr. Thomas L. Blanton, of Texas, having reserved a point of order against the amendment, the Chairman[2] ruled:

There can be no doubt that during the war legislation was enacted and is yet in force authorizing the Secretary of War to acquire, by purchase, donation, or by condemnation, such land sites throughout the United States as are immediately necessary for the permanent establishment of aviation schools, aviation posts, and experimental aviation stations and proving grounds for the United States Army. For this authority let me cite the act of July 9, 1918, as also legislation previously enacted thereto. Since the legislation referred to has not yet been repealed the rights and powers above mentioned are yet lodged in the Secretary of War. A similar situation arose on April 13, 1920, when the Chairman [Mr. Sanford, of New York] held that an appropriation for the acquisition of land necessary for aviation stations in connection with coast defense was in order as an amendment to the fortifications appropriation bill, since under existing war legislation the Secretary of War was granted power to acquire, by purchase or otherwise, land for aviation purposes. The Chairman, by reason of existing law and decisions thereunder, therefore overrules the point of order.

1279. The expenditure of an appropriation for expenses provided in an act creating a permanent commission was construed not to terminate the operation of the act, and a further appropriation for maintenance of the commission was held to be in order on an appropriation bill.

An appropriation for the expenses of the California Débris Commission was held to be authorized by law.

On May 8, 1920,[3] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

California Débris Commission: For defraying the expenses of the commission in carrying on the work authorized by the act approved March 1, 1893, $15,000.

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[1] Second session Sixty-sixth Congress, Record, p. 5693.

[2] John M. Rose, of Pennsylvania, Chairman.

[3] Second session Sixty-sixth Congress, Record, p. 6774.

Mr. Ben Johnson, of Kentucky, in presenting a point of order said:

Mr. Chairman, I reserve a point of order on the paragraph. In 1893, by act of Congress, this commission was given $15,000 for the year in order to defray its expenses. Since that time $15,000 has been appropriated for it every year, amounting to $375,000. That commission has a large revolving fund. It collects thousands of dollars in fees, out of which may be paid everything that this $15,000 would pay. For that reason I shall make the point of order against the item because as an unauthorized appropriation.

At the conclusion of the act of Congress there is this language. It will be found in volume 27, Statutes at Large, page 511.

"The sum of $15,000 is hereby appropriated from moneys in the Treasury not otherwise appropriated, to be immediately available to defray expenses of said commission."

Now, I take the position that by that language an annual authorization has not been made, and as conclusive evidence of that is the language in the money clause of the bill that it is to be "immediately available." I do not think Congress was then looking to future appropriations, because it would not look years ahead and say that each and every subsequent appropriation should be "immediately available."

There is no language anywhere to be found which justifies the annual appropriation of this money, and because of that, and because the commission does not need it, I make the point of order on the paragraph.

The Chairman [1] ruled:

The language of the paragraph to which the gentleman from Kentucky makes the point of order is as follows:

"California Débris Commission: For defraying the expenses of the commission in carrying on the work authorized by the act approved March 1, 1893, $15,000."

If the law did not authorize this expenditure, the appropriation would not be effective, because it could not be expended, by its express terms. The Chair has read the language of the act creating the California Débris Commission. It creates a permanent commission, with powers which clearly are intended to extend indefinitely—very broad powers with reference to the regulation of the silt from hydraulic mining and the navigability of streams. The gentleman from Kentucky contends that the language in the last paragraph of the act, which provides as follows—

"The sum of $15,000 is hereby appropriated from moneys in the Treasury not otherwise appropriated, to be immediately available, to defray the expenses of said commission"—is in fact a limitation upon the appropriation which may be made for the use of the commission. The language of the act itself negatives that contention; and even if it did not, the language the gentleman from Kentucky refers to is clearly an appropriation and not an authorization for an appropriation. The mere fact that it is made immediately available simply indicates that the commission might begin to expend it at once instead of at the beginning of the fiscal year.

The Chair thinks that the paragraph is clearly authorized by law and therefore overrules the point of order.

1280. An appropriation for expenses of the General Staff College was held to be in order on an appropriation bill.

A change in the name of an institution from that carried in the law authorizing appropriation for its maintenance was held not to vitiate such authorization where identity of the institution was not thereby obscured.

On February 2, 1921,[2] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following:

For expenses of the General Staff College, being for the purchase of the necessary stationery; typewriters and exchange of same; office, toilet, and desk furniture; textbooks, books of reference,

[1] Sydney Anderson, of Minnesota, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 2450.

scientific and professional papers and periodicals; printing and binding; maps; police utensils; the necessary fuel for heating the General Staff College building and for lighting the building and grounds; employment of temporary technical or special services and expenses of special lectures; and for all other absolutely necessary expenses, including $25 per month additional to regular compensation to chief clerk for superintendence of the General Staff College building; also for pay of a chief engineer at $1,400, an assistant engineer at $1,000, a carpenter at $1,000, 4 firemen at $720 each, an elevator conductor at $720; in all, $25,000.

Mr. Thomas L. Blanton, of Texas, made the point of order that there was no authority of law for the provision.

The Chairman [1] said:

The Chair thinks that he may well leave out of the discussion entirely the change in the name of this college. It is a fact repeatedly recognized in the law that there was established a college known, first, as the Army War College. Considerable sums of money were appropriated, buildings were erected, equipment provided, and the institution has been maintained for a number of years. In the Army reorganization act of June 4, 1920, the existence of this college is recognized, but it is referred to in that act as the General Staff College, and is so designated in the present bill. So far as the Chair is able to ascertain, the items enumerated in this paragraph are all necessary for the maintenance, in fact for the continuance, of this college. Therefore it seems to the Chair that the paragraph carrying these items is authorized by law so as to warrant Congress in making an appropriation for such purpose, in case this body should deem it wise to make such appropriation. The Chair, therefore, overrules the point of order.

1281. An appropriation for Army service schools was held to be authorized by law.

A provision prescribing method of appointing instructors in Army schools constitutes legislation and is not in order on an appropriation bill.

On February 2, 1921,[2] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

GENERAL SERVICE SCHOOLS.

Fort Leavenworth, Kans.: For the purchase of textbooks, books of reference, scientific and professional papers, instruments, and material for instruction; employment of temporary, technical, or special services, including the services of one translator, at the rate of $150 per month, to be appointed by the commandant of the school, with the approval of the Secretary of War; and for other necessary expenses of instruction, at the School of the Line and the General Staff School, Fort Leavenworth, Kans., $35,000.

A point of order presented by Mr. Thomas L. Blanton, of Texas, that the expenditure was unauthorized was overruled by the Chairman.[1]

Thereupon Mr. Charles P. Caldwell, of New York, made the further point of order that the provision for appointment of a translator constituted legislation.

The Chairman sustained the point of order.

1282. An appropriation for extension of a military telegraph system was held to be in order on an appropriation bill.

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 2461.

On February 2, 1921,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Thomas L. Blanton, of Texas, raised a point of order against this paragraph:

For defraying the cost of such extensions, betterments, operation, and maintenance of the Washington-Alaska Military Cable and Telegraph System as may be approved by the Secretary of War, to be available until the close of the fiscal year 1923, from the receipts of the Washington-Alaska Military Cable and Telegraph System which have been covered into the Treasury of the United States, the extent of such extensions and betterments and the cost thereof to be reported to Congress by the Secretary of War, $140,000.

The Chairman[2] ruled:

It is clear that this is a military cable, supposed to be necessary for carrying on the military arm of the Government. It is certainly authorized by law if anything in the bill is authorized by law, and the Chair overrules the point of order.

1283. An appropriation for purposes not enumerated which an Executive might deem advisable was held to be unauthorized.

A portion of a paragraph being out of order the entire paragraph is subject to a point of order.

On February 4, 1921,[3] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

For continuing the construction, equipment, and maintenance of suitable buildings at military posts and stations for the conduct of the post exchange, school, library, reading, lunch, amusement rooms, and gymnasium, including repairs to buildings erected at private cost, in the operation of the act approved May 31, 1902, for the rental of films, purchase of slides, supplies for and making repairs to moving-picture outfits and for similar and other recreational purposes at training and mobilization camps now established, or which may be hereafter established, and for such other purposes not enumerated above as the Secretary of War may deem advisable, to be expended in the discretion and under the direction of the Secretary of War, $150,000.

Mr. James V. McClintic, of Oklahoma, made the point of order that there was no authority of law for the expenditure.

The Chairman[2] said:

It is clear to the Chair that the last four lines of the paragraph carry it beyond what is now authorized by law, that language being—

"And for such other purposes not enumerated above as the Secretary of War may deem advisable."

It seems to the Chair that while it might be very desirable to leave that language in the bill, at the same time it would not come within any existing law. Therefore as to the language the Chair sustains the point of order. Does the gentleman make the point of order against the whole paragraph on that account?

Mr. McClintic having lodged the point of order against the entire paragraph, the Chairman continued:

The point of order having been made against the entire paragraph and a portion of the paragraph being subject to a point of order, the Chair sustains the point of order as to the entire paragraph.

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[1] Third session Sixty-sixth Congress, Record, p. 2468.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] Third session Sixty-sixth Congress, Record, p. 2610.

1284. An appropriation to encourage breeding of horses for the Army was held to be in order under the law authorizing appropriations for purchase of Army horses.

On May 9, 1921,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Thomas L. Blanton, of Texas, raised the question as to the existence of law for this language in the bill:

And $150,000 for encouragement of the breeding of riding horses suitable for the Army, including cooperation with the Bureau of Animal Industry, Department of Agriculture, and for the purchase of animals for breeding purposes and their maintenance.

The Chairman[2] decided:

This paragraph provides, among other things, for the procuring of horses for animal transportation and mounts for the Army. The gentleman from Texas makes a point of order against the language: "And $150,000 for encouragement of the breeding of riding horses suitable for the Army."

It is clear that the constitutional authority to raise armies and properly equip them would authorize the procuring of horses for the Cavalry and for other necessary horse transportation. It seems to the Chair that the breeding of riding horses suitable for the Army might be a proper method for securing them. Horses have been purchased for the use of the Army from the beginning of the Government, and for a number of years considerable sums of money have been appropriated for the breeding of Army horses. The only question which has caused the Chair to hesitate arises from the use of the words "for encouragement of." It is not entirely clear just what this language means, and such information as the Chair has received during the discussion on the point of order has not entirely clarified the matter, because most of the debate went to the merits of the proposition rather than to the point of order. It is urged that in order to make it possible for the Government to procure by purchase suitable horses for military purposes it is necessary to encourage in the way provided in the bill or otherwise the breeding of the type of horse required. The question is not free from doubt in the mind of the present occupant of the chair, but resolving the doubt in favor of the Army in case the necessity should exist as claimed, it seems to the Chair that under the authority for raising and equipping the Army it ought to be proper for Congress to appropriate not only for the purchase of horses but also to acquire horses by breeding them, or to encourage the breeding of such horses as might not be otherwise available. Therefore the Chair overrules the point of order.

1285. Decisions on authorization of appropriations for the promotion of rifle practice.

On March 28, 1924,[3] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A point of order made by Mr. Ben Johnson, of Kentucky, was pending on this paragraph:

To establish and maintain indoor and outdoor rifle ranges for the use of all able-bodied males capable of bearing arms, under reasonable regulations to be prescribed by the National Board for the Promotion of Rifle Practice and approved by the Secretary of War; for the employment of labor in connection with the establishment of outdoor and indoor rifle ranges, including labor in operating targets; for the employment of instructors; for clerical services; for badges and other insignia; for the transportation of employees, instructors, and civilians to engage in practice; for

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[1] First session Sixty-seventh Congress, Record, p. 1232.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] First session Sixty-eighth Congress, Record, p. 5168.

the purchase of materials, supplies, and services; and for expenses incidental to instruction of citizens of the United States in marksmanship and their participation in national and international matches, to be expended under the direction of the Secretary of War and to remain available until expended, $89,900.

The Chairman [1] sustained the point of order and ruled out the paragraph.

Whereupon Mr. Daniel R. Anthony, jr., of Kansas, offered the paragraph as an amendment, omitting the following language:

For the employment of instructors; for clerical services; for badges and other insignia; for the transportation of employees, instructors.

Mr. Johnson having again made the point of order, the Chairman ruled:

There is nothing in the amendment relating to international rifle matches. Section 113 of the national defense act is a provision entitled "Encouragement of rifle practice," and under that heading the act, as it seems to the Chair, attempts to authorize the holding of matches, the establishment and maintenance of indoor and outdoor rifle ranges, and authorizes the Secretary of War to prepare comprehensive plans such as will ultimately result in providing adequate facilities for rifle practice in all sections of the country, and in general to secure, maintain, and carry on these rifle ranges and indoor targets for the purpose of encouraging rifle practice.

It seems to the Chair that an act of this kind ought to be liberally construed to carry out the evident intent of the law itself. If the Secretary of War decides to carry it out through the National Board for the Promotion of Rifle Practice, it would seem, without evidence to the contrary, that this would be a proper means for carrying out the provisions of this law. Believing that the provisions contained in the amendment do not go beyond the authorization of the law itself, if properly interpreted, the Chair is constrained to overrule the point of order.

Immediately thereafter the Clerk read this paragraph:

For the purpose of furnishing a national trophy and medals and other prizes to be provided and contested for annually, under such regulations as may be prescribed by the Secretary of War, said contest to be open to the Army, Navy, Marine Corps, and the National Guard or Organized Militia of the several States, Territories, and of the District of Columbia, members of rifle clubs, and civilians, and for the cost of the trophy, prizes, and medals herein provided for, and for the promotion of rifle practice throughout the United States, including the reimbursement of necessary expenses of members of the National Board for the Promotion of Rifle Practice, to be expended for the purposes hereinbefore prescribed, under the direction of the Secretary of War, $7,500.

A point of order on the paragraph made by Mr. Johnson was sustained by the Chairman.

The next paragraph in the bill was as follows:

For arms, ammunition, targets, and other accessories for target practice for issue and sale in accordance with rules and regulations prescribed by the National Board for the Promotion of Rifle Practice and approved by the Secretary of War, in connection with the encouragement of rifle practice, in pursuance of the provisions of law, $10,000.

In response to a point of order by Mr. Johnson, the Chairman suggested:

The attention of the Chair is called to this provision of the law:

"2608. The Secretary of War is hereby authorized to issue, under such rules and regulations as he may prescribe, for use in target practice, target-practice materials and other accessories to rifle clubs organized under the rules of the National Board for Promotion of Rifle Practice"—

And so forth—

"for the proper conduct of target practice."

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[1] John Q. Tilson, of Connecticut, Chairman.

Mr. Johnson said:

Now, Mr. Chairman, I concede that the Secretary of War has the right to issue them, provided they are available. That is the law in section 113, and the National Board for Promotion of Rifle Practice is not mentioned in the national defense act, section 113.

There is nothing whatever in the law which authorizes this gun club to "buy" arms and ammunition. Nor is there anything in it which authorizes them to either buy or sell.

Will the Chair read the last part of section 113 and note that it provides that if "available" the Secretary of War may issue them under that act? He can not go into the market and buy for this gun club.

Let me call the Chair's attention to one distinction right there. That language may authorize the Secretary of War to buy, but the proposed language authorizes this gun club to buy. An authority given to the Secretary of War to buy is no authority to this gun club to buy with public money.

Thereupon the Chair sustained the point of order.

1286. On February 8, 1928,[1] during consideration in the Committee of the Whole House on the state of the Union of the War Department appropriation bill, Mr. John C. Speaks, of Ohio, proposed the following amendment:

For every expenditure requisite for and incident to the conduct of the national matches and the maintenance and operation of the Small Arms Firing School held in conjunction therewith as authorized by section 113 (c) of the national defense act (act of June 3, 1916, as amended by the acts of June 7, 1924, and February 14, 1927), including procurement and installation of equipment, ammunition, supplies, materials, flooring and frames for tents, construction of shooting galleries, and shelters for rifle practice; nonstructural improvements; repairs and alterations to buildings, water systems, sewer and lighting systems; repairs and alterations to equipment and supplies; communication service; pay and allowance of officers and enlisted men of the National Guard participating in the national matches and the Small Arms Firing School from the date of departure from their homes to the date of return thereto; pay and allowance of reserve officers called to active duty in connection with the national matches and the Small Arms Firing School; personal and nonpersonal services; subsistence, including commutation of rations, to authorized teams from the National Guard, Organized Reserve, Reserve Officers' Training Corps, citizens' military training camps, and civilian teams representing the States and including the enlisted men of teams from the Regular Army from the date of departure from their homes or stations to the date of return thereto at the rate of not exceeding $1.50 per day each; transportation, including repair, operation, and maintenance of motor-propelled and animal-drawn vehicles, travel of authorized teams representing the Regular Army, National Guard, Organized Reserve, Reserve Officers' Training Corps, citizens' military training camps, and civilian teams representing States, including officers and enlisted men of the Regular Army; travel of commissioned and enlisted personnel of the Regular Army; National Guard, and Organized Reserve on duty in connection with the national matches and the Small Arms Firing School, including mileage of officers; reimbursement of travel expenses or allowances in lieu thereof as authorized by law for officers of the Regular Army and Organized Reserve; travel of civilian employees to and from the national matches, including a per diem allowance in lieu of subsistence while traveling to and from said matches and while on duty thereat; all to be expended under the direction of the Secretary of War, $500,000.

Mr. Henry E. Barbour, of California, made the point of order that the amendment was not authorized by law.

After debate, the Chairman[2] held:

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[1] First session Seventieth Congress, Record, p. 2748.

[2] Walter H. Newton, of Minnesota, Chairman.

The Chair has the act before him. It is chapter 12 of title 32 of the United States Code. After examining section 181 of title 32 of the United States Code the Chair is impressed with the very broad language of the act. For example:

"The Secretary of War shall, within the limits of appropriations made from time to time by Congress, and in accordance with reasonable rules and regulations approved by him upon the recommendation of the National Board for the Promotion of Rifle Practice, authorize and provide for"—

And the Chair calls attention to the further very general and sweeping language of the authorization act—

"(a) Construction, equipment, maintenance, and operation of indoor and outdoor rifle ranges and their accessories and appliances.

"(b) Instruction of able-bodied citizens of the United States in marksmanship and, in connection therewith, the employment of necessary instructors.

"(c) Promotion of practice in the use of rifled arms, the maintenance and management of matches or competitions in the use of such arms, and the issuance in connection therewith of the necessary arms, ammunition, targets, and other necessary supplies and appliances, and the award to competitors of trophies, prizes, badges, and other insignia."

It is not necessary for the Chair to read the other provisions of the act. What has been read will give a very good idea on the very general and broad language used in the authorization act.

The Chair's attention has been called to an opinion rendered in construing the same act by Chairman Tilson, March 28, 1924. A similar point of order had been raised in reference to appropriations for international rifle matches.

The Chairman then read the decision [1] referred to and continued:

The Chair is of the opinion that with the broad language of the basic law and with the benefit of the observations made by the distinguished chairman the point of order should be overruled.

1287. The payment of a claim for liquidated damages is unauthorized by law and not in order on an appropriation bill.

On January 29, 1908,[2] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

For reimbursement of expenses incurred by the Wabash Railroad Company in the assembling of transportation for the movement of two squadrons of the Eleventh United States Cavalry, ordered by the War Department in April 1906, $283.39.

Mr. James R. Mann, of Illinois, made the point of order that the appropriation was for payment of unliquidated damages and therefore not authorized by law.

The Chairman [3] said:

It seems to the Chair that the appropriation provided for in this section can not be made in a general appropriation bill unless it is either a judgment of the Court of Claims or an audited claim. The Chair understands that it is neither a judgment of the Court of Claims nor an audited claim, and therefore sustains the point of order.

1288. The fact that a department officer has reported on a claim in accordance with a direction of law does not thereby make an audited claim for which provision may be made in an appropriation bill.

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[1] Sec. 1285, supra.

[2] First session Sixtieth Congress, Record, p. 1285.

[3] George P. Lawrence, of Massachusetts, Chairman.

On January 31, 1921,[1] the river and harbor appropriation bill was under consideration in the Committee of the Whole House on the state of the Union.

Mr. John H. Small, of North Carolina, offered an amendment including the following paragraph, on which Mr. Thomas L. Blanton, of Texas, raised the question of authorization:

Readjustment of contracts: The sum of $194,742.65 is hereby appropriated to pay amounts found to be due various contractors under the provisions of section 10 of the river and harbor act approved March 2, 1919, on certain contracts for work on river and harbor improvements entered into but not completed prior to April 6, 1917, for work performed between April 6, 1917, and July 18, 1918, as set forth in detail in the report submitted in House Document No. 986, Sixty-sixth Congress, third session.

The Chairman[2] ruled:

The last paragraph of the amendment offered by the gentleman from North Carolina provides for readjustment of contracts, and it appropriates the sum of one hundred and ninety-four thousand and odd dollars to pay the amounts found to be due to various contractors under the provisions of section 10 of the river and harbor act of March 2, 1919. The paragraph provides for the payment of a large sum of money for amounts found to be due under section 10 of the river and harbor act of March 2, 1919. Section 10 of the river and harbor act of March 2, 1919, simply provides that the Secretary of War may investigate and report to Congress the amounts which he thinks should be paid to the several contractors, but it does not provide for any audit, and is insufficient authorization, in the opinion of the Chair, to support an appropriation for payment in general appropriation bills. The Chair would call the attention of the gentleman to a decision in Hinds' Precedents, volume 4, section 3639. In that ruling the Chairman of the Committee of the Whole held that the fact that a department officer had reported on a claim in accordance with a direction of law did not thereby make an audited claim, for which provision might be made on appropriation bills. The present occupant of the Chair is inclined to think that that ruling is sound and based on correct reasoning, and the Chair therefore, sustains the point of order.

1289. A proposition to pay an unliquidated claim against the Government is not in order on an appropriation bill.

On January 28, 1908,[3] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

Reimbursement of J. Nota McGill and others: For the reimbursement of J. Nota McGill, Chapin Brown, Rufus H. Thayer, Robert C. Wilkins, and J. Wesley Bovee for amount expended for plumbing in the building for male employees in the Reform School for Girls of the District of Columbia, $391.

Mr. James R. Mann, of Illinois, made the point of order against the paragraph.

The Chairman[4] ruled:

The Chair is ready to rule on the point of order. The pending section provides for reimbursement of certain persons for an amount expended for plumbing in the building for male employees in the Reform School for Girls in the District of Columbia. Congress authorized, the Chair understands, the construction of this building at the limited cost of $6,000. The amount called for in this section is in excess of that amount, and it seems to the Chair it is a claim against

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[1] Third session Sixty-sixth Congress, Record, p. 2352.

[2] James W. Husted, of New York, Chairman.

[3] First session Sixtieth Congress, Record, p. 1255.

[4] George P. Lawrence, of Massachusetts, Chairman.

the Government, and is a claim that must be audited by the proper authorities before it can be in order upon a general appropriation bill. The Chair, therefore, sustains the point of order.

1290. An appropriation to refund amounts erroneously collected from corporations and covered into the Treasury is not in order unless authorized by specific law.

On June 29, 1926,[1] during consideration of the second deficiency appropriation bill in the Committee of the Whole House on the state of the Union, the Clerk read as follows:

Refunds to railroads for interest collected: For refunds to such railroads as made payments of interest, that were covered into the United States Treasury, on overpayments made by the United States under sections 209 (g) and 212 of the transportation act, as amended, to be settled and adjusted by the General Accounting Office, fiscal year 1926, $48,852.83, to remain available until June 30, 1927.

Mr. Eugene Black, of Texas, made a point of order that the proposed appropriation was not authorized by law.

The Chairman[2] sustained the point of order.

1291. It is in order on a deficiency bill to appropriate for the payment of judgments of the courts certified to Congress in the form of a public document transmitted to the Speaker by the Executive, but not otherwise and a mere certified copy of a mandate of the Supreme Court of the United States transmitted informally was held not to justify an appropriation in an appropriation bill.

On July 20, 1909,[3] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. J. Van Vechten Olcott, of New York, offered this amendment:

Judgment of Court of Claims. Insert "to pay the judgment of the Court of Claims in the case of J. M. Ceballos & Co. *v.* The United States, No. 23689 in said court, entered on mandate of the Supreme Court of the United States, $205,614.37."

Mr. James R. Mann, of Illinois, reserved a point of order on the amendment and asked if the claim had been certified to Congress by the Secretary of the Treasury.

Mr. Olcott said:

It has not, but I have a certified copy of the mandate of the Supreme Court of the United States. The Supreme Court found that the money was due.

After further debate, the Chairman[4] held:

It is well settled that it is in order upon a deficiency bill to pay judgments certified to Congress in accordance with law. Now, the question is whether or not this is a judgment certified to Congress in accordance with law. It is not exemplified in the entire record, and does not purport to be. It is simply a certified copy of the mandate of the United States Supreme Court. It does not come before the House in the form of a public document transmitted by a chief of an

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[1] First session Sixty-ninth Congress, Record, p. 12249.

[2] Willis C. Hawley, of Oregon, Chairman.

[3] First session Sixty-first Congress, Record, p. 4581.

[4] Irving P. Wanger, of Pennsylvania, Chairman.

executive department to the Speaker of the House, and, in accordance with the ruling of the present occupant of the chair a day or two since, the Chair feels compelled to sustain the point of order.

1292. While it is in order to appropriate for payment of judgments of the courts certified to Congress in accordance with law, mere findings of fact by the Court of Claims were held not to authorize an appropriation.

On February 28, 1911,[1] the general deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. Willis C. Hawley, of Oregon, proposed this amendment:

Insert as a new paragraph:

"Relief of the State of Oregon: To enable the Secretary of the Treasury to reimburse the State of Oregon for expenditures made by said State, at the request of the authorities of the United States, during the Civil War, in the enlistment of soldiers mustered into the service of the United States; and there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of $193,543.02, this sum being the amount determined upon by the Court of Claims in a finding of fact printed in Senate Document No. 28, Sixty-first Congress, first session."

In contravention of a point of order made against the amendment by Mr. John J. Fitzgerald, of New York, Mr. Hawley said:

This claim was submitted to the Court of Claims by the Senate of the United States, and the amount specified in the amendment I offer is the amount stated by that court in the finding of fact. It is not a judgment; it is a finding of fact.

The Chairman[2] ruled:

If this was a judgment of the Court of Claims, it would be in order on a deficiency bill. The gentleman from Oregon states that it is not a judgment of the Court of Claims, but is a mere finding of fact by that court. Findings of fact filed by the Court of Claims do not authorize an appropriation on a general deficiency bill.

1293. An appropriation for balance due under an authorized contract was held to be in order on a deficiency appropriation bill although the item had not been audited.

On May 24, 1921,[3] the deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. James W. Good, of Iowa, offered the following amendment:

Navy yard, Norfolk, Va.: For dry dock and accessories: To enable the Secretary of the Navy to pay the George Leary Construction Co. under the contract No. 2258, and changes thereto, for completion of Dry Dock No. 4, in full compensation for the construction of such dry dock, $167,500.

Mr. Thomas L. Blanton, of Texas, made the point of order that the appropriation was not authorized by existing law.

Mr. Good explained:

It does not have to be an audited claim. It is a balance due on a contract. Here is the contract. I have made a statement of what the contract contains. Under that contract there

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[1] Third session Sixty-first Congress, Record, p. 3729.

[2] Frank D. Currier, of New Hampshire, Chairman.

[3] First session Sixty-seventh Congress, Record, p. 1691.

is a balance due of this amount, and it is a valid claim against the Government. The amendment is to liquidate the balance due under the contract. The work has been performed; the work has been accepted; and the department certifies that this amount is due and that they do not have the money to pay it. It does not have to be audited. It is for a balance due under a written contract authorized by law, where we have appropriated all the money, over $5,000,000, except this amount. They made a claim for a greater amount, but we disallowed it. This is in full payment for that work done under that contract, and it is in accordance with the terms of the contract. It is not in the nature of a claim against the Government.

The Chairman [1] overruled the point of order.

1294. The authorization to conduct investigations conferred by the organic law establishing the Department of Agriculture does not extend to investigations conducted by other departments in connection with the Department of Agriculture.

On February 10, 1908,[2] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

To enable the Commissioner of Indian Affairs to conduct experiments on Indian school or agency farms, in cooperation with the Department of Agriculture, designed to test the possibilities of soil, climate, and so forth, in the cultivation of trees, grains, vegetables, and fruits not hitherto raised in those neighborhoods, using Indian labor in the process, $5,000.

Mr. John J. Fitzgerald, of New York, made the point of order that there was no authority of law for the expenditure.

The Chairman [3] ruled:

While the Department of Agriculture undoubtedly has general authority to carry on experiments in the cultivation of trees, and so forth, the Chair understands that no such authority is now given by law to the Commissioner of Indian Affairs. It was suggested that we have power to carry on schools. That is undoubtedly so; but under the guise of carrying on schools it would be impossible, it seems to the Chair, at least it would be illegal, to give authority to enter into new and altogether different fields of activity. This provision would authorize the Commissioner of Indian Affairs to expend money to test the cultivation of trees, grain, and vegetables in certain portions of the country. As the Chair understands, no such authority is now possessed by the Commissioner of Indian Affairs. In view of that, he feels, without discussing the merits, constrained to sustain the point of order.

1295. A proposition to appropriate for demonstrating processes of manufacturing denatured alcohol at an exposition was held not to be authorized by general law giving the Secretary of Agriculture authority to acquire and diffuse information pertaining to agriculture.

On March 31, 1908,[4] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Ernest M. Pollard, of Nebraska, offered as an amendment:

To enable the Secretary of Agriculture to make demonstrations of the different processes of manufacturing denatured alcohol, and such other demonstrations as he may think advisable, at the corn exposition to be held in Omaha next October.

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[1] Philip P. Campbell, of Kansas, Chairman.

[2] First session Sixtieth Congress, Record, p. 1771.

[3] James B. Perkins, of New York, Chairman.

[4] First session Sixtieth Congress, Record, p. 4190.

Mr. James R. Mann, of Illinois, made the point of order that there was no authority of law for the provision.

The Chairman [1] ruled:

The Chair will ask the gentleman to permit him to call the gentleman's attention to one precedent only, which, it seems to the Chair, is decisive of the whole matter:

"A provision to appropriate for compiling tests of dairy cows at an exposition was held not to be authorized as an expenditure by general law giving to the Secretary of Agriculture authority to acquire and diffuse information pertaining to agriculture."

The Chair does not see how it could possibly get around that precedent, in favor of the proposition of the gentleman from Nebraska. The Chair therefore sustains the point of order.

1296. An appropriation for investigating sources of raw materials for making paper was held not to be authorized by the provision of the organic law creating the Department of Agriculture.

On April 2, 1908,[2] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read by the Clerk:

To enable the Secretary of Agriculture to inquire into additional sources of raw materials for making paper, and processes of manufacture, in cooperation with the several bureaus of the department and the paper mills, $10,000, or so much thereof as may be necessary, including the employment of labor in Washington or elsewhere.

Mr. Edgar D. Crumpacker, of Indiana, raised a point of order on the paragraph, contending that it was unauthorized.

The Chairman [1] held:

It seems to the Chair this proposition goes beyond the provision in the original law under which the department was organized, and therefore the Chair sustains the point of order.

1297. Recent decisions hold an appropriation to investigate the drainage of wet lands not to be authorized by law.

On February 3, 1910,[3] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read this paragraph:

Drainage investigations: To enable the Secretary of Agriculture to investigate and report upon the drainage of swamp and other wet lands and to prepare plans for the removal of surplus waters by drainage and for the preparation and illustration of reports and bulletins on drainage, including rent and the employment of labor in the city of Washington and elsewhere, and all necessary expenses, $78,860.

Mr. James R. Mann, of Illinois, made the point of order that there was no authority of law for this character of investigation, and said:

There is no authority of law for this investigation or this experiment. The Agricultural Department, by its organic act or by any subsequent act, has not been authorized to make this investigation in reference to swamp and other wet lands; and while the appropriation has been carried from year to year, and I apprehend it will be carried when this appropriation bill becomes law, I think it is just as well to say it is subject to the point of order, and might properly go out here, considering the desire to stick in a lot of extraneous matters for the investigation of such things.

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[1] David J. Foster, of Vermont, Chairman.

[2] First session Sixtieth Congress, Record, p. 4300.

[3] Second session Sixty-first Congress, Record, p. 1457.

Subsequently Mr. Mann withdrew the point of order. Thereupon Mr. James B. Perkins, of New York, renewed it.

The Chairman [1] sustained the point of order.

But on March 12, 1912, this decision [2] was overruled in express terms, and the later decision has since been followed.

1298. An appropriation for investigation of foods in their relation to commerce and consumption is not so authorized by law as to sanction an appropriation on an appropriation bill.

On February 3, 1910,[3] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read:

And the Secretary of Agriculture is hereby authorized to investigate the cost of food supplies at the farm and to the consumer, and to disseminate the results of such investigation in whatever manner he may deem best; this authorization to be effective upon the approval of this act.

Mr. Swagar Sherley, of Kentucky, made the point of order that the paragraph was unauthorized by law.

The Chairman [4] said:

The paragraph against which a point of order is made proposes that the Secretary of Agriculture shall be authorized to investigate the cost of food supplies at the farm and to the consumer and to disseminate the results of such investigation. It further provides that the authorization shall be effective on the approval of this act.

In the opinion of the Chair this is clearly legislation. Even if it were an appropriation authorizing this on an appropriation bill, it would still be subject to a point of order as something unauthorized by law. It has been heretofore held that the investigation of foods in their relation to commerce and consumption was not authorized by law in such a way as to permit an appropriation on the agricultural appropriation bill. The Chair therefore sustains the point of order.

1299. The broad powers of investigation conferred by the organic act creating the Department of Agriculture were held to authorize an investigation to determine possible sources of mineral fertilizers.

On February 10, 1911,[5] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Asbury F. Lever, of South Carolina, proposed an amendment, as follows:

Amend by adding a new paragraph, as follows:

"For exploration and investigation within the United States to determine a possible source of supply of potash, nitrates, and other natural fertilizers, $12,500, $2,500 of which shall be immediately available."

Mr. Charles F. Scott, of Kansas, having reserved a point of order on the amendment, the Chairman [6] held:

It is quite apparent from the language of the fundamental law that the Secretary of Agriculture is given very broad powers for making different investigations here in furtherance of the

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[1] David J. Foster, of Vermont, Chairman.

[2] Section 1318 of this chapter.

[3] Second session Sixty-first Congress, Record, p. 1468.

[4] Philip P. Campbell, of Kansas, Chairman.

[5] Third session Sixty-first Congress, Record, p. 2300.

[6] Joseph H. Gaines, of West Virginia, Chairman.

interests of agriculture, and the Chair is inclined to think, from a careful reading of this amendment, and especially the words "and other natural fertilizers," that it is clear the investigations as to the source of supply of potash and nitrates are clearly in furtherance of the interests of agriculture. In other words, that it comes within the very broad powers given to the Secretary. The Chair therefore overrules the point of order.

1300. On January 25, 1932,[1] in the course of the consideration of the Department of Agriculture appropriation bill in the Committee of the Whole House on the state of the Union, the following paragraph was reached:

Fertilizer investigations: For investigations within the United States of fertilizers and other soil amendments and their suitability for agricultural use, $358,535.

To this paragraph Mr. A. J. May, of Kentucky, offered the following amendment:

After the word "fertilizers," insert "fertilizer ingredients, including phosphoric acid and potash."

Mr. Robert G. Simmons, of Nebraska, raised the question of order that appropriations for the purposes proposed by the amendment were without legislative authority.

The Chairman[2] referred to the decision of February 10, 1911,[3] on a similar question and overruled the point of order.

1301. While an appropriation to enable the Secretary of Agriculture to make certain investigations is authorized under the organic law creating the Department of Agriculture, it is not in order to require cooperation of States, companies, or individuals therein.

On March 5, 1912,[4] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read by the Clerk:

For studying methods of clearing off "logged-off" lands with a view to their utilization for agricultural and dairying purposes; for their irrigation; for testing powders in clearing them; and for the utilization of by-products arising in the process of clearing, in cooperation with States, companies, or individuals, or otherwise, $5,000.

Mr. John J. Fitzgerald, of New York, made a point of order on the paragraph.

The Chairman,[5] in sustaining the point of order, said:

The Chair is of the opinion that the general purpose of preparing logged-off lands for agriculture and studying methods of doing that would not be subject to a point of order, but that the provision for the cooperation with States, companies, or individuals would be new legislation. The point of order to the entire paragraph is therefore sustained.

1302. On March 13, 1914,[6] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. J. Hampton Moore, of Pennsylvania, offered this amendment:

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[1] First session Seventy-second Congress, Record, p. 2679.

[2] John W. McCormack, of Massachusetts, Chairman.

[3] Reported in section 1299 of this chapter (next above).

[4] Second session Sixty-second Congress, Record, p. 2854.

[5] William P. Borland, of Missouri, Chairman.

[6] Second session Sixty-third Congress, Record, p. 4831.

That the Department of Agriculture shall cooperate with such States as may have provided by appropriation for the investigation and suppression of the mosquito.

Mr. Asbury F. Lever, of South Carolina, made the point of order that the requirement for cooperation with the States was new law and not in order on an appropriation bill.

The Chairman [1] sustained the point of order.

1303. While the organic law creating the Department of Agriculture confers broad powers of investigation, it does not authorize investigations abroad.

On February 11, 1913,[2] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

Irrigation investigations: To enable the Secretary of Agriculture to investigate and report upon the laws of the States and Territories as affecting irrigation and the rights of appropriators, and of riparian proprietors and institutions relating to irrigation, and upon the use of irrigation water at home and abroad, with especial suggestions of the best methods for the utilization of irrigation waters in agriculture, and upon the use of different kinds of power and appliances for irrigation, and for the preparation and illustration of reports and bulletins on irrigation, including the employment of labor in the city of Washington and elsewhere, rent outside of the District of Columbia, and all necessary expenses, $108,000.

Mr. William E. Cox, of Indiana, made the point of order that there was no authorization of law for investigations "abroad."

After debate, the Chairman [3] sustained the point of order.

1304. An appropriation for collection of market statistics on agricultural products was held to be authorized by the organic act creating the Department of Agriculture.

On January 31, 1919,[4] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union when Mr. Frederick W. Dallinger, of Massachusetts, offered this amendment:

For furnishing to producers, dealers, newspapers, and consumers accurate information regarding supplies of fruits, vegetables, dairy and poultry products, meats, fish, and other food products received on farmers', municipal, and other city markets and prices for which such products are sold; and information regarding such products when in abundance or oversupply, and other related matters, $42,880.

Mr. William H. Stafford, of Wisconsin, raised a point of order on the amendment.

The Chairman [1] said:

The organic act reads as follows:

"There shall be at the seat of government a Department of Agriculture, the general design and duties of which shall be to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture, in the most general and comprehensive sense of the word, and to procure, propagate, and distribute among the people new and valuable seeds and plants."

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[1] Courtney W. Hamlin, of Missouri, Chairman.

[2] Third session Sixty-second Congress, Record, p. 2997.

[3] Jack Beall, of Texas, Chairman.

[4] Third session Sixty-fifth Congress, Record, p. 2474.

It seems to be rather general and broad. The Chair will call attention to the fact that this amendment is general and applies to work all over the United States. The Chair thinks that the point of order is not well taken, and he overrules the point of order.

1305. An appropriation providing for the daily issue of a price list reporting prices of farm products received by producers was held to be authorized by the organic act creating the Department of Agriculture.

On March 3, 1928,[1] during consideration of the bill making appropriations for the Department of Agriculture, in the Committee of the Whole House on the state of the Union, Mr. Fiorello H. LaGuardia, of New York, proposed an amendment providing for—

including a daily price list of farm products paid to farmers or producers, such price list to be widely diffused and published for the information of consumers in all cities having a population of over 500,000 inhabitants.

Mr. L. J. Dickinson, of Iowa, having interposed a point of order, the Chairman[2] ruled:

The language of the organic act with reference to the establishment of the Department of Agriculture reads as follows:

"The general design and duties of which shall be to acquire and diffuse among the people of the United States useful information on subjects connected with agriculture in the most general and comprehensive sense of that word."

In view of that very broad language, the Chair is disposed to overrule the point of order. The question is on agreeing to the amendment offered by the gentleman from New York.

1306. An appropriation for investigation of road materials was held to be unauthorized by law.

On January, 26, 1921,[3] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union when Mr. Sydney Anderson, of Minnesota, offered an amendment as follows:

Insert a new paragraph, as follows:

"For investigations of the chemical and physical character of road materials, for conducting laboratory and field experiments, and for studies and investigations in road design, independently or in cooperation with the State highway departments and other agencies, $148,200."

Mr. Marvin Jones, of Texas, having lodged a point of order against the amendment on the ground that it was unauthorized, the Chairman[4] said:

The Chair feels that there is no authorization in law for this work. The Chair may have overlooked some provision of law, but not being able to find any and not having any pointed out to him the Chair feels constrained to sustain the point of order and does sustain the point of order.

1307. While an appropriation for investigation of road materials was held not to be authorized under the organic act creating the Department of Agriculture, because not devoted exclusively to agricultural purposes, an appropriation for investigation of irrigation was held to come within the law and to be in order on an appropriation bill.

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[1] First session Seventieth Congress, Record, p. 4044.

[2] Allen T. Treadway, of Massachusetts, Chairman.

[3] Third session Sixty-sixth Congress, Record, p. 2077.

[4] Frederick C. Hicks of New York, Chairman.

On February 13, 1920,[1] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. Thomas L. Rubey, of Missouri, offered this amendment:

Insert a new paragraph, as follows:

"For conducting field experiments and various methods of roadconstruction and maintenance, and investigations concerning various road materials and preparations; for investigating and developing equipment intended for the preparation and application of bituminous and other binders; for the purchase of materials and equipment; for the employment of assistants and labor; such experimental work to be confined as nearly as possible to one point during the fiscal year, $45,000."

Mr. Bertrand H. Snell, of New York, made the point of order that there was no authorization for an investigation of this character.

The Chairman[2] held:

The Chair has referred to the authorization of law for the Bureau of Public Roads, and finds by reference to the Book of Estimates that the first authorization was made in the appropriation bill approved March 3, 1905. Subsequent to that date appropriations have been made and items carried in the agricultural appropriation bill providing for various investigations and activities on the part of this bureau. But the Chair finds nothing in the organic act for the establishment of the Department of Agriculture authorizing this particular activity, nor does he think the very general language used establishing that department is sufficient to warrant this particular appropriation unless specific authority is found in some other law. The Chair does not believe that the establishment of this bureau or making appropriations for these various activities in the annual appropriation bill or in the language used in the various appropriation bills is sufficient to warrant or to provide for their establishment as a permanent branch of the department. In view of the Chair the amendment offered by the gentleman from Missouri is such activity as is not warranted by existing law, and the Chair therefore sustains the point of order.

The Clerk read as follows:

For investigating and reporting upon the utilization of water in farm irrigation, including the best methods to apply in practice; the different kinds of power and appliances, and the development of equipment for farm irrigation; the flow of water in ditches, pipes, and other conduits; the duty, apportionment, and measurement of irrigation water; the customs, regulations, and laws affecting irrigation; for the purchase and installation of equipment for experimental purposes; for the giving of expert advice and assistance; for the preparation and illustration of reports and bulletins on irrigation; for the employment of assistants and labor in the city of Washington and elsewhere; for rent outside of the District of Columbia; and for supplies and all necessary expenses, $62,440.

Mr. Snell having again raised the same question of order, Mr. James R. Mann, of Illinois, said:

Mr. Chairman, this is entirely different from a road proposition. Roads are not confined to agriculture. This proposition is for the purpose of investigating and reporting on the use of water in farm irrigation. Now, I have no doubt it is familiar to the Chair, as it is to everybody else, that irrigation is just as important on the farm as any other operation on the farm. We investigate the diseases of horses, and we investigate animals on the farm, of all sorts; we investigate the raising of wheat and corn and other farm products. Now, irrigation is just as much a part of the work of the farm as the raising of wheat or corn. That is not true in the State of New York or in the State of Illinois, but notwithstanding those two great States are very important in agri-

[1] Second session Sixty-sixth Congress. Record, p. 2863.

[2] Joseph Walsh, of Massachusetts, Chairman.

culture, they are not the only places in the country where there are farms. Now, the organic act authorizes the collection and diffusion of knowledge in its broadest sense, relating to agriculture. That certainly would include the use of irrigation on the farms. That is all this item is.

The Chairman ruled:

The gentleman from New York makes the point of order to the pending paragraph. The Chair understands he bases his contention on the ground that it provides for a general investigation, which is not authorized to be made upon a general appropriation bill. From the language of the pending paragraph, taken as a whole, it seems to authorize an investigation and report upon matters connected with the utilization of water in farm irrigation and the preparation of reports and distribution of the results of that investigation. And the Chair may again refer to the organic act establishing this department, found in the Revised Statutes, second edition, of 1878, page 87, Title II, which provides for the Department of Agriculture:

"The general design and duties of which shall be to acquire and diffuse among the people of the United States useful information of subjects connected with agriculture in the most general and comprehensive sense of that word."

It also provides for securing and preserving the information concerning agriculture by practical and scientific experiments, an accurate record of which experiments shall be made. If seems to the Chair, in view of the broad, general language used in the organic act, that this is such an investigation as would be authorized, and that it comes within the authority of the department to make investigation and diffuse the information concerning it among the people of the United States. The Chair does not think that this language, taken as a whole, provides for a general investigation, but rather a thorough investigation of a particular subject, namely, the utilization of water in farm irrigation. The Chair overrules the point of order.

1308. While the organic act creating the Department of Agriculture was held to authorize an appropriation for maintenance of a highway weather service, it was ruled not to justify an appropriation for collection of data as to the effects of weather on such highways.

On January 22, 1921,[1] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. Carl Hayden, of Arizona, offered an amendment, as follows:

For the maintenance of a highway weather service for the collection of reports concerning the effects of weather on public highways, and the issuing of advice, forecasts, and warnings in the aid of highway travel, in cooperation with Federal, State, and local agencies, including salaries, travel, and all other expenses in the city of Washington and elsewhere, $20,000.

Mr. Sydney Anderson, of Minnesota, in making a point of order against the amendment said:

Mr. Chairman, I did not intend to make the point of order, but as long as it has been made, it is important that it should be determined correctly. I assume the weather is not different over the highways than anywhere else in their vicinity, and that the general authority of the Weather Bureau would apply with respect to a weather service directed particularly to informing motorists as to what the weather was going to be, just as much as to anyone else. But the language which I think is questionable is the language in the first part of the amendment, namely:

"For the maintenance of a highway weather service."

I think that is all right. Then it says:

"For the collection of reports concerning the effect of weather on public highways."

I do not think there is any law which authorizes the Weather Bureau to make reports concerning the effects of the weather upon public highways. It has authority to report what the

[1] Third session Sixty-sixth Congress, Record, p. 1901.

weather is in the vicinity of the highways, but I do not think it has the authority to investigate the effects of the weather upon the highways. And that part of the amendment, is clearly subject to a point of order.

The Chairman [1] held:

This amendment brings up a rather close question, in the opinion of the Chair. The Chair feels it is impossible for him to determine which of the three activities enumerated in the act creating the Weather Bureau will be benefited. He also doubts if the authorization is broad enough to cover a specific case outside the three mentioned. This amendment is to ascertain "the effect on public highways," and the Chair doubts very much if the law contemplated that a specific subject of that kind should be included. The Chair, therefore, sustains the point of order.

Thereupon Mr. Hayden offered this amendment:

For the maintenance of a highway weather service and the issuing of advices, forecasts, and warnings in aid of highway travel in cooperation with Federal, State, and local agencies, $20,000.

Mr. Thomas L. Blanton, of Texas, again raised the point of order.

The Chairman ruled:

The precedent that we have in Hinds in which, on an amendment, the Weather Bureau was directed to cooperate with the States, and because of that wording it was ruled out of order. The Chair ventures the assertion that there is no direction of authority in this amendment. The Chair feels that under the broad authority creating the Weather Bureau for the public good, and on which the only limitation so far as the Chair can ascertain is that it shall be for the benefit of agriculture, commerce, or navigation, and as this is clearly for the benefit of one of those three, preferably agriculture, for highways are of vital importance to the farmers. The Chair feels that this amendment comes within the law creating the Weather Bureau and therefore overrules the point of order.

1309. An appropriation for control of the European corn borer was held to be authorized by the organic act establishing the Department of Agriculture.

On February 12, 1920,[2] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. Thomas L. Rubey, of Missouri, offered an amendment proposing an appropriation to enable the Secretary of Agriculture to meet the emergency caused by the spread of the European corn borer in the New England States.

Mr. Thomas L. Blanton, of Texas, made the point of order that the appropriation was not germane and was unauthorized by law.

The Chairman [3] said:

The gentleman from Texas makes the point of order to the amendment offered by the gentleman from Missouri—

"To enable the Secretary of Agriculture to meet the emergency caused by the establishment of the European corn borer in Massachusetts, New York, and other States, and to provide means for the control and spread of this insect in these States or elsewhere in the United States, in cooperation with the State or States concerned, including rent outside of the District of Columbia, and the Department of Labor in the city of Washington and elsewhere, and all other necessary expenses, $300,000."

The Chair overrules the point of order that the amendment is not germane to the particular paragraph or place in the bill which it follows.

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[1] Frederick C. Hicks, of New York, Chairman.

[2] Second session Sixty-sixth Congress, Record, p. 2807.

[3] Joseph Walsh, of Massachusetts, Chairman.

With reference to the point of order that the amendment introduces legislation unauthorized by law, the Chair finds that the organic act establishing the Department of Agriculture provides that there shall be a Department of Agriculture to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture, in the most general and most comprehensive sense of that word; and further, that the Secretary of Agriculture is to procure and preserve all information concerning agriculture which he can obtain by means of books and correspondence and by practical and useful experiments, an accurate record of which shall be kept in his office, by the collection of statistics and by any other appropriate means within his power; and then it provides for the collection of valuable seeds and plants.

It will be noticed that with reference to this authority very broad and general language is used, and apparently the intention was in providing for this department, to permit a wide latitude in whatever action might be taken either by Congress or by the head of the department. This amendment is offered to a place in the bill having to do with the Bureau of Entomology, which is for the investigation of insects affecting vegetation. In the view of the Chair the amendment proposes to meet an emergency and to provide for investigation and to provide a means of control and prevention of an insect which is destroying an agricultural crop; and the Chair is inclined to rule that it is in order to offer the amendment and that it does not violate the rule against new legislation or the introduction of a new subject. The Chair overrules the point of order.

1310. An appropriation to give employees of the House a month's pay in addition to the annual salary is not in order on an appropriation bill.

On July 20, 1909,[1] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Marlin E. Olmsted, of Pennsylvania, offered this amendment:

To enable the Secretary of the Senate and the Clerk of the House of Representatives to pay to the officers and employees of the Senate and the House borne on the annual and session rolls on the 1st day of July, 1909, including the Capitol police, the official reporters of the Senate and House, and W. A. Smith, Congressional Record clerk, for extra services during the extra session of the Sixty-first Congress a sum equal to one month's pay at the compensation then paid them by law, the same to be immediately available.

Mr. Robert B. Macon, of Arkansas, having made a point of order against the amendment, Mr. Ohmsted cited several decisions holding a similar provision in order on an appropriation bill and said:

It has been done from year to year from a time whereof the memory of man runneth not to the contrary. It may be said to have become a part of the law of the land by prescription. By immemorial custom it is a part of the salary of these officials. They accept their positions with that understanding. It would be unfair, almost dishonest, to them to deprive them of it in this way.

The Chairman[2] sustained the point of order and said:

There is no question about the decisions having been rendered that were cited by the distinguished gentleman from Pennsylvania, and the last instance cited by him was in the Fifty-fifth Congress, where a decision of the Chair sustaining the point of order was overruled by the committee. But the Chair is, of course, bound by the last precedent upon the question. In the Fifty-sixth Congress, on May 14, 1900, an amendment providing an extra month's pay for employees was ruled out of order on the general deficiency bill by Mr. Chairman Hopkins, and on an appeal the decision was sustained—ayes 58, noes 24.

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[1] First session Sixty-first Congress, Record, p. 4572.

[2] Irving P. Wanger, of Pennsylvania, Chairman.

1311. Action by the House authorizing Members to appear in court in connection with their official duties is construed to imply authorization for employment of counsel to represent them.

On June 17, 1910,[1] the general deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

To pay George E. Hamilton and John W. Yerkes for services as counsel to the Members of the House of Representatives of the Joint Committee on Printing in the suit of the Valley Paper Company, plaintiff, against the Joint Committee on Printing of Congress, respondents, $5,000.

Mr. William H. Stafford, of Wisconsin, made the point of order that there was no authority of law for the provision.

The Chairman[2] ruled:

It is not within the province of the Chair to rule as to the wisdom or unwisdom of the passage of this original resolution; nor is it any more within the province of the Chair to pass upon the reasonableness or unreasonableness of the fee included in the amendment against which the point of order has been made. The only question presented to the Chair is whether this expenditure or liability has been authorized, and for that authorization we must look to the resolution itself which has been read by the gentleman from Wisconsin.

The part of that resolution which gives authority, if it is given at all for this expenditure, is this:

"Grant permission to enter an appearance in response to said rule for the purpose of pleading to the jurisdiction of the court and taking such further action and interposing such further defense as to them may seem proper."

Now the question is, Having been granted permission to appear in court and plead to the jurisdiction and make such other defense as to them seems proper, leaving it within their discretion, is it a fair construction of that resolution to assume that the House meant that they should appear without counsel or procure counsel at their own personal expense? True, all the members of the Committee on Printing on the part of the House happen to be lawyers, but lawyers in various States not accustomed to the practice of the District of Columbia, to say nothing of compelling them to be both client and counsel in the same cause. Having thus authorized them to appear and plead to the jurisdiction and make such other defense as to them might seem proper, it seems to the Chair that the House by that resolution did authorize them to appear as other parties appear in court, and being in court to make their defense as parties generally make defense, the employment of counsel being incident to a proper appearance in court to plead to the jurisdiction, make defense, or take any other action.

It seems to the Chair that the authorization contained in this resolution is sufficient to justify this item in the bill. The Chair therefore overrules the point of order.

1312. The House having passed a resolution authorizing members to appear in court in official capacity, a provision for salary of counsel to represent them on that occasion is in order on an appropriation bill.

On February 28, 1911,[3] the general deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. George C. Sturgiss, of West Virginia, offered this amendment:

To Richard Randolph McMahon, for legal services as of counsel to the Members of the House of Representatives of the Joint Committee on Printing in a suit at law, No. 52342, Valley

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[1] Third session Sixty-first Congress, Record, p. 3739.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] Second session Sixty-first Congress, Record, p. 8436.

Paper Co., plaintiff, *v.* The Joint Committee on Printing of Congress, respondents, in the supreme court of the District of Columbia, in February, 1910, $500.

Mr. James R. Mann, of Illinois, raised a question of order against the amendment.

The Chairman [1] held:

On June 17, 1910, it was held by the Chairman of the Whole House on the state of the Union, Mr. Tilson, that a resolution authorizing certain Members to appear and act in response to a rule of a court was sufficient authorization for an appropriation in a general appropriation bill for their counsel. From that decision an appeal was taken and the Chair was sustained without division. The Chair, therefore, overrules the point of order. The ruling last year was that the resolution authorizing certain Members to appear and act in response to a ruling of a court was held to be sufficient authorization for an appropriation in a general appropriation bill for their counsel.

1313. The House having passed a resolution from the Committee on Accounts authorizing the employment of a person, a provision for the salary is in order on an appropriation bill, but such provision shall conform with the provisions of the resolution.

On February 9, 1922,[2] the legislative appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

For compensation of W. Ray Loomis as assistant in the document room, $2,500.

Mr. James T. Begg, of Ohio, made the point of order against the paragraph: The Chairman [3] ruled:

The resolution authorizing the employment of this man was passed in July, 1919, presented by the chairman of the Committee on Accounts. The resolution is as follows:

"Resolved, That there shall be paid, out of the contingent fund of the House until otherwise provided for by law, compensation at the rate of $3,000 per annum, payable monthly, to W. Ray Loomis for his services as editor and compiler of the Weekly Compendium and Monthly Compendium and as assistant in the document room."

There was an amendment to the resolution which reduced the amount to $2,500. The appropriation in the bill reads as follows:

"For compensation of W. Ray Loomis as assistant in the document room, $2,500."

The question is whether this appropriation is warranted under the authority which I have read which constitutes the law justifying the appropriation. It appears to the Chair that there is no possible question about that. The appropriation was only authorized by existing law for the purpose of providing, as stated, for the services of compiling a compendium and as assistant in the document room. This appropriation is not for such purpose, but for the purpose of paying for an assistant. The identification of the individual would not help, in the judgment of the Chair, in making it possible for the Chair to hold that it was authorized by existing law when the only existing law is distinctly different from the appropriation, and the point of order is sustained.

1314. Provision of law establishing a Government plant or station was held not to justify an appropriation for designated personnel necessary for its operation.

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[1] Frank D. Currier, of New Hampshire, Chairman.

[2] Second session Sixty-seventh Congress, Record, 2268.

[3] Horace M. Towner, of Iowa, Chairman.

While completion of a biological station is such a work in progress as to justify a lump-sum appropriation for that purpose, an appropriation for designated personnel to operate such station is not to be construed as provision for a work in progress and is not in order on an appropriation bill.

On February 25, 1909,[1] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

Biological Station, Fairport, Iowa: Director, at the rate of $1,800 per annum; superintendent of fish culture, at the rate of $1,500 per annum; scientific assistant, at the rate of $1,400 per annum; scientific assistant, at the rate of $1,200 per annum; foreman, at the rate of $1,200 per annum; shell expert, at the rate of $1,200 per annum; engineer, at the rate of $1,000 per annum; two firemen, at the rate of $600 per annum each; two laborers, at the rate of $600 per annum each; in all, $7,800 or so much thereof as may be necessary.

Mr. William E. Cox, of Indiana, having made the point of order on the paragraph, Mr. Albert F. Dawson, of Iowa, said:

Mr. Chairman, it does not seem to me the point of order can possibly lie against this paragraph in the bill. The act approved May 27, 1908, provided for the establishment of a biological station on the upper Mississippi Valley, and appropriated $25,000 for that purpose. Under the authorization of the act the Commissioner of Fisheries has gone forward and established this station at Fairport, Iowa. The paragraph in this bill, against which the gentleman now seeks to raise the point of order, simply provides for the personnel of that station. If the point of order is sustained, Mr. Chairman, we will be in the position of Congress by law establishing this biological station and yet being prevented from appropriating or providing the officials necessary to conduct that station. By law we have provided for the station and appropriated the money for its construction. It seems to me it would be perfectly ridiculous and absurd to think that the point of order would lie against an appropriation simply to provide the employees for that station. If the point of order is good, then we would simply have a station located out there on the Mississippi River, with no one to conduct it. Certainly that provision of law creating the station carries with it the authority to provide the necessary personnel for the management and conduct of that station. It seems to me, Mr. Chairman, there can be no question but that the point of order does not lie against the paragraph.

Mr. James A. Tawney, of Minnesota, further submitted:

Mr. Chairman, in addition to the fact that this biological station is authorized by law, the station has been established, the work of completing it or preparing it for the uses for which it was established is now going on—a public work in progress, originally authorized by law.

The Chairman[2] decided:

The law providing for the establishment of this station, as the Chair understands it, reads as follows:

"Biological station, Mississippi River Valley: To enable the Secretary of Commerce and Labor to establish a biological station for the propagation of fresh-water mussels in the upper Mississippi Valley, at some suitable point to be selected by the Secretary of Commerce and Labor, including the purchase of site, construction of buildings and ponds, and equipment, $25,000."

The Chair thinks the section is subject to the point of order and is clearly obnoxious to the rule. It has been held, for instance, that a specific appropriation for designated officials of an exposition at stated salaries, there being no prior legislation creating those places and fixing

[1] Second session Sixtieth Congress, Record, p. 3138.

[2] Marlin E. Olmsted, of Pennsylvania, Chairman.

those salaries, is subject to the point of order, although a general appropriation for the exposition was authorized by law. There is no question, in the opinion of the Chair, but that a lump-sum appropriation might be made to continue this particular establishment, but that does not authorize creating the posts and fixing various salaries. The Chair thinks it is clearly obnoxious to the rule and sustains the point of order.

1315. While a statute creating a bureau for a declared purpose may authorize a lump-sum appropriation for carrying out that purpose, it does not create offices or warrant appropriations for salaries of specific offices.

The statute creating the Bureau of Education was held not to justify an appropriation for specific offices not otherwise authorized by law.

On January 7, 1911,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the State of the Union, when Mr. James R. Mann, of Illinois, made the point of order that the following language, in a paragraph appropriating salaries for the Bureau of Education, was not authorized by existing law:

Specialist in higher education, specialist in rural education, specialist in school hygiene, at $3,000.

The Chairman[2] ruled:

On February 28, 1898, the gentleman from New York, Mr. Payne, being Chairman of the Committee of the Whole House on the state of the Union, the sundry civil bill being under consideration, a section was reached making an appropriation of $100,000 for the participation of the United States in the Paris Exposition. This section provided also for the appointment of a commissioner general and other officials, with specified duties and salaries; authorized certain heads of departments to prepare exhibits under certain conditions and regulations, and so forth.

A point of order was made that this was legislation on an appropriation bill. The Chair ruled:

"The Chair thinks the act of 1897 is sufficient foundation for an appropriation, but not for legislation. The Chair is unable to see wherein it authorizes the office of commissioner general or assistant commissioner, from the reading of the law by the gentleman from Illinois. The rule in regard to the continuation of public works simply authorizes an appropriation in the continuance of public works and not the appointment of officers. * * * The rule would simply authorize an appropriation, but would not authorize legislation upon the subject in a general appropriation bill. There are in this paragraph several clauses which are distinctly new legislation, and if in a paragraph any clause or provision is out of order, the point of order against the whole paragraph must be sustained."

On February 25, 1909, when the sundry civil bill was under consideration, the gentleman from Indiana, Mr. Watson, being Chairman of the Committee of the Whole House on the state of the Union, ruled as follows:

"The authorization of a Government establishment without legislation establishing offices and salaries does not authorize specific appropriations for such salaries, even although a lump sum might be appropriated to carry out the work."

The Chair thinks it is conceded that the language to which the point of order is directed does create new offices, and the Chair sustains the point of order.

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[1] Third session Sixty-first Congress, Record, p. 624.

[2] Frank D. Currier, of New Hampshire, Chairman.

1316. Statutes authorizing the employment of such departmental clerks "as may be appropriated for by Congress from year to year" or "as Congress may from time to time provide" were held to warrant appropriations for clerkships not otherwise authorized.

On February 4, 1911,[1] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When the paragraph providing appropriations in the Bureau of Plant Industry was reached Mr. Charles L. Bartlett, of Georgia, reserved a point of order on items for clerkships not previously provided for.

Mr. James R. Mann, of Illinois, in discussing the point of order, said:

The organic act creating the Department of Agriculture provides, in section 523 of the Revised Statutes:

"The Commissioner of Agriculture shall appoint a chief clerk, and he shall appoint such other employees as Congress may from time to time provide, with salaries corresponding to the salaries of similar offices in other departments of the Government; and he shall, as Congress may from time to time provide, employ other persons for such time as their services may be needed, including chemists, botanists, entomologists, and other persons skilled in the natural sciences pertaining to agriculture."

The question is whether under that provision Congress can provide for a new office.

Mr. Chairman, I had the honor to report to this House the bill creating the Department of Commerce and Labor, the last department that was created in the Government. In that department we created several new bureaus. We studied that subject very thoroughly in the committee, knowing that it was impossible to put in the statute the number of employees that should be engaged in the bureau permanently and do it successfully. We undertook to write the statute in such a way that in the annual appropriation bills the number of employees might be varied as requirements would suggest. And in that law, creating the Bureau of Corporations, the language is "as Congress may from time to time authorize," or "provide," whichever it is. It does not say "appropriate," for, as I recall it, it was the understanding then in the House, and was so stated, that that language was intended to mean that under it Congress could vary the number of employees in the bureau from time to time. It would be preposterous to say that Congress should legislate every year by direct legislation fixing the number of employees in a bureau which may expand or contract in the exigencies of the service. I think there is no escape from the proposition that the language "may from time to time provide" means to provide in an appropriation act.

The Chairman[2] held:

The Chair is not inclined to believe that the statutes intend to make any difference between the Department of Agriculture and other departments of the Government in the matter of the power of Congress to appropriate for places from year to year. It is true that title 4, section 169, of the Revised Statutes, reads as follows:

"Each head of a department is authorized to employ in his department such number of clerks of the several classes recognized by law and such messengers, assistant messengers, copyists, watchmen, laborers, and other employees, and at such rates of compensation, respectively, as may be appropriated for by Congress from year to year."

The language referring to the Department of Agriculture in similar connection reads as follows:

"SEC. 523. The Commissioner of Agriculture shan appoint a chief clerk * * * and he shall appoint such other employees as Congress may from time to time provide, with salaries corresponding to the salaries of similar officers in other departments of the Government, etc."

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[1] Third session Sixty-first Congress, Record, p. 1943.

[2] Joseph H. Gaines, of West Virginia, Chairman.

The point of difference comes on the comparison of the language—

"As may be appropriated for by Congress from year to year"—

and the language—

"As Congress may from time to time provide."

There was certainly no question that Congress might from time to time provide by additional proper legislation for new places, even without a previous statute on the subject, and therefore, unless the statute just read with reference to the Department of Agriculture is construed to be of similar import as section 169 of the Revised Statutes, relative to other departments, the language would have no meaning at all. The Chair, therefore, overrules the point of order.

1317. Construction of the law authorizing the employment of mechanics and laborers and other employees in the executive departments.

On March 1, 1912,[1] the agriculturaj appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The paragraph providing for salaries of employees in the office of the Secretary of Agriculture was read, when Mr. Frank Clark, of Florida, made a point of order that the provision for "two cabinetmakers or carpenters, at $1,000 each," formerly carried in the agricultural appropriation bill as "two carpenters at $ 1,000 each," was not authorized by law.

The Chairman[2] held:

The Chair holds that the construction placed upon that statute[3] would authorize the employment of this class of mechanics and laborers. In section 3669, of Hinds' Precedents, a point of order was made against the employment of a telephone switchboard operator, and in the same section a point of order was made against the employment of a wireman, both of whom were evidently skilled mechanics. The point of order was overruled, and the point of order is overruled at this time.

1318. The law authorizing the heads of departments to employ such labor as may be appropriated for does not apply to labor not at the seat of government.

Contravening a former ruling, an appropriation for drainage investigations was held in order on the agricultural appropriation bill.

On March 12, 1912,[4] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

Drainage investigations: To enable the Secretary of Agriculture to investigate and report upon the drainage of swamp and other wet lands and to prepare plans for the removal of surplus waters by drainage and for the preparation and illustration of reports and bulletins on drainage, including the employment of labor in the city of Washington and elsewhere, rent outside of the District of Columbia, and all necessary expenses, $96,700.

Mr. James R. Mann, of Illinois, made the point of order that there was no authority of law for the appropriation.

The Chairman[2] said:

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[1] Second session Sixty-second Congress, Record, p. 2678.

[2] William P. Borland, of Missouri, Chairman.

[3] Rev. Stat., section 169.

[4] Second session Sixty-second Congress, Record, p. 3220.

The Chair has given this paragraph some little attention, and has studied in connection therewith the ruling of a former Chairman of the Committee of the Whole when this identical language was under consideration. The Chair is aware that at that time the identical language was held subject to a point of order. The objection is made that the language does not limit these activities or investigations to land which would be the subject of agriculture. As far as that point is concerned, the Chair is not able to see the distinction between this paragraph and numerous other paragraphs in the bill, including the one in regard to natural deposits of potash. It is perfectly apparent that there are a great many of the activities of the Department of Agriculture that may be advantageous in manufacturing, and some possibly in mining, but if the main purpose must necessarily be agricultural, it undoubtedly would come within the scope and powers of the Department of Agriculture.

The gentleman from Illinois, Mr. Mann, says that it is impossible to conceive of a discovery of a natural deposit of potash or other natural fertilizer which would not directly affect agriculture, and the same argument applies to the drainage of swamp lands, that it is impossible to conceive of the drainage of swamp land that would not affect agriculture, not only at that locality, but of the entire country dependent for its food supply upon agricultural land available in the market. The Chair is unable to see anything in the scope of that paragraph that removes it at all from the general jurisdiction of the Department of Agriculture, and with the exception of a very small technical point, the Chair would be entirely convinced that the paragraph was in order, and was within the powers of the Department of Agriculture.

The language of the section is that the money shall be expended for the employment of labor in the city of Washington and elsewhere and for rent outside of the District of Columbia. The language of the decisions—not one isolated decision on a particular set of words, but a long line of precedents establishing a general rule of construction in this House—has been that language in an appropriation bill attempting to give the head of a department power to employ labor is limited to the department in the city of Washington. That being a general line of precedents, and well settled by repeated decisions, the Chair feels bound to follow it. The Chair must very reluctantly, therefore, sustain the point of order.

1319. It is in order to appropriate specifically a specified salary previously paid from a lump-sum appropriation made under authority of law for an office created by an executive in charge of the lump-sum appropriation.

On April 5, 1912,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

For pay of one financial clerk, at $600, and one physician, at $480 per annum, in addition to employees otherwise provided for at the Sac and Fox Agency, Iowa; in all, $1,080.

To this paragraph Mr. Robert H. Fowler, of Illinois, made a point of order, as follows:

Mr. Chairman, I desire the attention of the Chair for one moment to make myself clear on the proposition. The lump sum which has been appropriated heretofore, I presume, was under authority of law. That lump sum was placed under the control of the commissioner to carry out this work as he saw proper. He could hire a man 1 day or 20 days or a year, if he saw fit under that authorization, and pay him any sum agreed upon.

Now, it is proposed to take a portion of this work away from the control of the commissioner and give it to two specified created offices, entirely new, without any authorization under the law as it stands now, and fix their salaries, over which the commissioner has no control whatever. Therefore it becomes new legislation, creating new offices and fixing the salaries therefor, different from what the authorization is now, and hence, I take it, Mr. Chairman, it is new legislation. I do not desire to take up the time of the House, but I insist upon my point of order.

[1] Second session Sixty-second Congress, Record, p. 4356.

In reply, Mr. James R. Mann, of Illinois, said:

Mr. Chairman, it has been more or less of a controverted question in the House where a lump-sum appropriation was made under authority of law and an office was created by the person in charge of that lump-sum appropriation, as to whether that office could then be specifically carried in an appropriation bill by name at the same salary as under the lump-sum appropriation. I do not propose to discuss it at length, but perhaps the latest ruling made on the subject was during the discussion of the agricultural appropriation bill. There the question was distinctly presented on a point of order whether it was in order to appropriate specifically for an office at a specified salary, which office had heretofore been filled and paid out of a lump-sum appropriation. I have forgotten at present who was in the chair, but the Chairman of the Committee of the Whole at that time ruled distinctly that where an office was created and paid out of a lump-sum appropriation that then it was in order for the committee to report in order on a bill making appropriations an item for that office with the salary carried which was already being paid. I take it, Mr. Chairman, that there is no doubt Congress, either by express provision of law or by reason of the policy of the Government, is entitled to maintain Indian agencies. I do not now recall just what was said, but I referred awhile ago to the fact that I made a point of order on the item in the bill for the Seminole Indians last year or the year before when it first appeared. I thought it was a perfectly good point of order. We were under no obligations, so far as treaties were concerned, to aid in the support of those Indians. So far as we were concerned, they were like other citizens of the United States, but for reasons which were then presented on the floor the then Chairman held that it was the policy of the United States, either by expressed law or by inference of law, to give aid and support to the Indians, and to the end of that policy it was in order to make an appropriation for the first time without specific treaty or other authority of law for the benefit of the Seminole Indians, and that item went into the bill and remained in the bill. The same rule would apply in general terms to the maintenance of the Indian agencies, would apply in general terms to the lump-sum items in the bill, or in the existing law out of which these officers are now paid, and if that rule is to be followed and then the ruling made recently by the Chair on the agricultural bill is to be followed, why this item would have to be held in order.

The Chairman [1] held:

The Chair fully appreciates that the point of order made against the paragraph is similar to the one made against the previous paragraph. The Chair's ruling on that paragraph was based largely upon the information received from the committee, that this appropriation, for such it may be called, is merely an itemization of the lump sum provided on the previous page of the bill. Heretofore, as the Chair understands it, this appropriation has been made in a lump sum, and the manner of the distribution of the amount has been left to some other authority than to Congress. Under the action of the committee in this bill the committee has undertaken to distribute these item to the several States where they think they properly belong, and with that understanding the Chair held that the point of order was not well taken. If the Chair was right in the previous ruling, as he believes rulings of this sort have been made before, he must also overrule the point of order in this instance, and he does so, and the Clerk will read.

1320. The law authorizing the heads of departments to employ such clerks as may be appropriated for was held to warrant an appropriation for clerks in the field force of the Civil Service Commission.

On December 6, 1912,[2] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read the paragraph providing appropriations for salaries of district secretaries in the field force of the Civil Service Commission.

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[1] Henry A. Barnhart, of Indiana, Chairman.

[2] Third session Sixty-second Congress, Record, p. 234.

Mr. Robert H. Fowler, of Illinois, raised a question of order on the paragraph.

Mr. James R. Mann, of Illinois, said:

Mr. Chairman, if the Chair will permit, I would like to make an observation in reference to the rule. Mr. Chairman, the rulings in regard to matters of this sort are so arbitrary and artificial that sometimes it is necessary to restate them. The rulings are uniform for many years that so far as the salary is concerned the salary in the current law fixes the salary for the bill. In other words, an increase in the salary of an official when that salary is covered by the current law can not be made over a point of order. This is a purely artificial ruling, because there is no salary fixed by law for these places, but long ago some Chairman held that current law fixed the salary, because without that the House was in confusion. Now, there is also no law fixing the number of these places, but there is a uniform ruling that where the position was authorized at all you could increase the number of places in that position unless the law fixed the number. Take, for instance, the most common illustration, which is the Post Office Department. The number of clerks and carriers in the Post Office Department is not fixed by law except the current law. They have to be increased every year. It is impossible as a matter of practice to pass a law definitely fixing for future years the number of clerks or carriers in the Post Office Department. The same is true of clerks in the different departments in Washington, but where a certain number is carried in the current law, say, two at $1,800, while the salary fixed is in the present bill and current law the number is not governed by the current law, and in this case the Civil Service Commission, being authorized to do this work and have these employees, the number of employees in the current law does not control the House in fixing the number in the bill each year, although the salary is controlled by the current law. Now, these officers being authorized by the law, the number may be increased by Congress from time to time without being subject to a point of order.

The Chairman [1] held:

It seems to the Chair that the first question for the Chair to ascertain is whether or not section 169 of the Revised Statutes authorized these clerks or whether the head of a department has the right to employ these five clerks. In 1906 Mr. Boutell was in the chair, and this identical question came up and was decided [2] by him on a point of order made by Mr. Tawney upon clerks of a similar nature in the War Department. Mr. Boutell held at that time, quoting section 169, that where the statute had authorized the heads of the department to employ clerks and other laborers that it was in order, and he overruled the point of order. He used this language:

"The first question is, What law authorizes this appropriation? The only law referred to is that contained in section 169 of the Revised Statutes, which is as follows:"

Here he quotes the statute. This is a similar case, where the gentleman from New York [Mr. Fitzgerald] cites the statute, section 169, as authority for this legislation. Mr. Boutell made this comment:

"The next question, of course, is whether these clerks referred to in the items to which objection has been made are to be employed by the head of a department and in his department. The gentleman from Iowa, Mr. Hull, is quite correct in his statement of the ruling made by the occupant of the chair, Mr. Hopkins, as referred to on page 2404 of the Record, third session Fifty-fifth Congress, but it appears that at that time the Chairman of the Committee of the Whole was not familiar with the ruling of the Attorney General, which has been submitted to."

And he went on and held that these clerks were to be employed as contemplated in section 169 of the Revised Statutes. The Chair is of the opinion that section 169 would apply to the clerks in this item, and therefore overrules the point of order.

1321. The law authorizing the heads of departments to employ such clerks as may be appropriated for was held to authorize clerkships not otherwise authorized.

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[1] John N. Garner. of Texas. Chairman.

[2] Hinds' Precedents, section 3670.

On February 7, 1913,[1] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the-Union. When the paragraph providing salaries for the office of the Secretary of Agriculture was reached Mr. Robert H. Fowler, of Illinois, made a point of order against appropriations for salaries of various positions carried in the paragraph on the ground that they were not authorized by law.

The Chairman[2] said:

The Chair remembers the controversy which took place in the House on the consideration of the agricultural bill last year. The gentleman from Florida, Mr. Clark, directed a point of order against this item in the bill. Those supporting the item predicated that support upon the original act creating the Department of Agriculture, which authorized the head of that department to do certain things, and upon a statute that gave certain authority to various heads of departments; also upon the language contained in the agricultural appropriation act of 1910. That language is this:

"Solicitor, $4,500; hereafter the legal work of the Department of Agriculture shall be performed under the supervision and direction of the solicitor."

The recollection of the Chair is that the gentleman from Missouri, Mr. Borland, presided over the committee at that time and held that the point of order was not well taken, and suggested that even if the original act, or the provision of the statute to which I have referred, was not sufficient to authorize the provision the appropriation act of 1910 was in itself sufficient, because while it was an appropriation act still there was legislation on it, and the provision with respect to the solicitor was not limited to that particular year, but contained the word "hereafter."

The Chair reads from section 3687 of Hinds' Precedents, volume 4:

"In the absence of a general law fixing a salary the amount appropriated in the last appropriation bill has been held to be the legal salary, although in violation of the general rule that the appropriation bill makes law only for the year."

If this position had been created by a separate and distinct statute establishing the position and fixing a definite salary for it, that salary would govern, and if a committee in the preparation of an appropriation bill should increase the salary or the allowance for that salary at any subsequent time and a point of order should be made against it, the point of order would be good. But as the Chair understands the language of the appropriation act of 1910, it did not attempt to fix a definite salary for the position of solicitor, and under the precedent that the Chair has cited, inasmuch as Congress in its last appropriation bill fixed the salary at $5,000, it is the opinion of the Chair that that would be the law with respect to the salary and therefore the point of order is overruled.

In the opinion of the Chair, the precedents are almost uniform to the effect that, under the authority of the act creating the Department of Agriculture, as well as under the authority of the article of the statute which has been read here, it is within the province of this committee to consider any item on an appropriation bill to create and care for such an employee as this, and therefore the Chair overrules the point of order.

1322. A general law authorizing the heads of departments to employ such clerks as may be appropriated for, a provision making appropriation for clerks so employed was held to be in order.

On January 22, 1921,[3] the Agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The paragraph providing for salaries of clerks in the office of the Secretary of Agriculture had been read.

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[1] Third session Sixty-second Congress, Record, p. 2732.

[2] Jack Beall, of Texas, Chairman.

[3] Third session Sixty-sixth Congress, Record, p. 1894.

Gilbert N. Haugen, of Iowa, reserved a point of order against the following provision:

Director of scientific work, $5,000; director of regulatory work, $5,000.

Debating the point of order, Mr. Sydney Anderson, of Minnesota, said:

It is true, Mr. Chairman, there is no law which specifically provides for the employment of a director of scientific work or a director of regulatory work in the department. But, Mr. Chairman, there are employed in the Department of Agriculture agronomists, chemists, meteorologists, all sorts of men of various sundry and diverse designations, and there is no specific authorization of law for these employments. There is, however, a general law applicable to all the departments, which has been frequently construed and which may have an applicability to this situation. That general law is as follows, and is in section 169 of the Revised Statutes:

"Each head of a department is authorized to employ in the departments such number of clerks of the several classes recognized by law, and such messengers, assistant messengers, copyists, watchmen, laborers, and other employees, at such rates of compensation, respectively, as may be appropriated for by Congress from year to year."

Now, I do not maintain, of course, that these two places are authorized under this law. I refer to it only because I shall have occasion later to refer to the decisions under it, which I think are applicable as well to another provision which I am now going to read.

Section 523 of the Revised Statutes provides:

"The Commissioner of Agriculture shall appoint a chief clerk, with the salary of $2,000 a year, who in all cases during the necessary absence of the commissioner, or when the office of the commissioner shall become vacant, shall perform the duties of the commissioner."

Now, this is the language to which I wish to direct the attention of the Chair:

"And he shall appoint such other employees as Congress may from time to time provide in other departments of the Government, and he shall, as Congress may from time to time provide, employ other persons for such time as their services may be needed, including chemists, botanists, entomologists, and other persons skilled in the natural sciences pertaining to agriculture."

Now, it is clearly the intention of Congress in putting that language into the statute to give to the Secretary of Agriculture the broadest possible power to employ persons necessary to carry on the work which Congress provides for by appropriations, and also to give the general authority to appoint the persons for whom Congress might by appropriation provide these salaries.

The Chairman [1] held:

The Chair is aware that this is a very close question and that there is some conflict in the precedents.

Section 169 of the Revised Statutes has been quoted, which refers to the power of the department to appoint clerks of various classes, messengers, and so forth. If that was the only law in existence the Chair would have no doubt as to his decision, for he would base it on a precedent in Hinds', volume 4, section 3590, in which case a nearly similar proposition was ruled out of order. But referring to the law creating the Department of Agriculture, paragraph 778 of Chapter I, the Chair reads:

"The Secretary of Agriculture shall appoint a chief clerk"—

And so forth; and then this further power is given him:

"He shall, as Congress may from time to time provide, employ other persons for such time as their services may be needed, including scientists, botanists, entomologists, and other persons skilled in the natural sciences pertaining to agriculture."

It seems to the Chair in reading the part of the bill to which objection has been made that the Director of Scientific Work must be assumed to be a scientist in order to be qualified to be a director of that work. The Chair also thinks that the man in charge of the regulatory work should be a scientist.

[1] Frederick C. Hicks, of New York, Chairman.

The Chair fortifies his position by a further authorization in the law. The Chair finds that in addition to the power to appoint scientists the Secretary of Agriculture has the power to appoint other persons, persons skilled in science pertaining to agriculture. It seems to the Chair that the authority granted to the Secretary of Agriculture is extremely broad—undoubtedly intended to be so in order to be sufficiently comprehensive to provide for the needs of the department as it develops. While a precedent can be referred to which does not allow the creation of a bureau for the purpose of carrying on scientific investigations without specific authorization, the Chair does not think that ruling applies in this case. Other rulings would make it clear that the authorization is not broad enough to cover officers high up in the department. But the Chair thinks that in order to carry on the work of the department the Secretary is authorized under the organic law to appoint men who are not at the very top of the department. Therefore the Chair feels that the point of order made by the gentleman from Iowa is not well taken. To further fortify the Chair's decision, he refers to page 2732 of the Congressional Record, February 7, 1913, where a ruling was made which is in line with the ruling of the present occupant of the chair. The Chair also cites the ruling of Chairman Madden on May 27, 1919, in a case almost parallel to the present one. The Chair overrules the point of order.

1323. Statutory authorization for paying expenses of "advertisement of sale" was construed not to justify payment of salaries of employees in connection with such sale.

On January 7, 1913,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. John H. Stephens, of Texas, made a point of order against the following amendment offered by Mr. Charles H. Burke, of South Dakota:

For payment of salaries of employees and other expenses of advertisement of sale in connection with the disposition of the unallotted lands and other tribal property belonging to any of the Five Civilized Tribes, to be paid from the proceeds of such sales when authorized by the Secretary of the Interior as provided by the act approved March 3, 1911, not exceeding $25,000 reimbursable from the proceeds of sale.

After debate, the Chairman [2] held:

The Chair is inclined to think that the authority of the act cited which provides for depositing in certain banks the net receipts from the sales of surplus and unallotted lands, less the necessary expense of advertising and sale, is hardly authority to support the amendment under consideration relating to the salaries of employees and other things. The Chair is not very well satisfied in his own mind about this ruling, because it is difficult for him to get at all the provisions of law back of the amendment, and which are supposed to justify it. On the whole, however, though with some hesitation, the Chair sustains the point of order.

1324. A position having been created by law without fixing the amount of salary to be paid incumbent, any amount of salary provided therefor in an appropriation bill is not subject to a point of order.

On February 21, 1913,[3] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Robert H. Fowler, of Illinois, raised a question of order against this paragraph:

Office of the Deputy Public Printer: Deputy Public Printer, $4,500; clerks—two of class 1, one $900; chemist, $1,600; messenger, $840; in all, $10,240.

Mr. John J. Fitzgerald, of New York, said:

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[1] Third session Sixty-second Congress. Record, p. 1189.

[2] Edward W. Saunders, of Virginia, Chairman.

[3] Third session Sixty-second Congress, Record, p. 3596.

Mr. Chairman, the act of February 26, 1907, which was the legislative appropriation act, provides as follows:

"The office of Deputy Public Printer shall be filled by the selection and appointment by the Public Printer of a person skilled as a practical printer and versed in the art of bookbinding, and who shall perform the duties heretofore required of the chief clerk, have supervision of the buildings occupied by the Government Printing Office, and perform such other duties as may be required of him by the Public Printer."

That provision unquestionably provides for the appointment of a Deputy Public Printer. The amount of his compensation is not fixed in that act or in any other act, and under the decisions where a compensation is not fixed the amount provided in the current law is the sum to be considered in disposing of points of order. The compensation here is the same as in the current law, and I submit the gentleman's point of order is not well taken.

The Chairman [1] held:

The Chair is of the opinion that this provision in the act of 1907 conveys the intention of Congress to create the office of Deputy Public Printer, and in this provision there is no salary fixed for the office. In the judgment of the Chair it is within the province of the Appropriations Committee to appropriate what in its judgment is necessary, and for it to become a law by the approval of Congress. Therefore, the Chair overrules the point of order.

The Chair is of the opinion that it was the intention of Congress at this time to create the office of Deputy Public Printer. It did not fix the salary, and the Appropriations Committee is acting within its power when it fixes the salary of that office. And then it is for Congress to determine whether that salary shall be allowed or not. So the Chair thinks this is entirely within the rules and is not subject to the point of order.

1325. Statutory provision for such employees "as may be authorized by law" is construed to authorize appropriations to pay classes of employees so authorized.

The organic acts creating the Departments of Commerce and Labor, and subsequently the Department of Labor, were held to authorize lumpsum appropriations for special employees.

On April 14, 1914,[2] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

For compensation and per diem, to be fixed by the Secretary of Commerce, of special attorneys, special examiners, and special agents, for the purpose of carrying on the work of said bureau, as provided by the act approved February 14, 1903, entitled "An act to establish the Department of Commerce and Labor," the per diem to be, subject to such rules and regulations as the Secretary of Commerce may prescribe, in lieu of subsistence, at a rate not exceeding $4 per day to each of said special attorneys, special examiners, and special agents, and also of other officers and employees in the Bureau of Corporations while absent from their homes on duty outside of the District of Columbia, and for their actual necessary traveling expenses, including necessary. sleeping-car fares; in all, $175,000.

Mr. Horace M. Towner, of Iowa, made the point of order that the paragraph was not authorized by law.

Mr. James R. Mann, of Illinois, said:

Mr. Chairman, I will state that I am the author of that law. The matter of employment of officials in the department under authorization of law has long been one of some contention.

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[1] Martin D. Foster, Of Illinois, Chairman.

[2] Second session Sixty-third Congress, Record, p. 6687.

In recent years in creating departments, and that was the case in creating the Department of Commerce and Labor, the authority was given for the employment of certain experts or other persons when authorized by law, the purpose of that being, under construction of the rules of the House in force, that the authorization would be in the appropriation bill itself.

The authorization for the employment was in the original organic act, except that that authorization instead of specifying the amount which may be appropriated for the number of experts who may be employed, says "such number as may be authorized by law." That was under a construction of the rules of the House holding that in such cases that language authorized the appropriation bill to carry a provision for those experts. And gentlemen can easily see the reason for that construction. It is not possible in creating a new department or a new bureau to provide specifically for the number of the employees who may be in the department and the bureau, unless you leave it so that there can be no growth or, if there is growth, so that every time there is a growth it is subject to a point of order. Hence under the construction of the rules of the House in the organic act creating the Department of Commerce and Labor, and I think also in the organic act creating the Department of Labor, and in creating a good many other bureaus of the Government, there is the provision that persons may be employed as authorized by law. That authorization by law means the appropriation acts. That has been the construction all the time. That was the construction before this language was used in the organic act of the Department of Commerce and Labor and has been the construction of that language ever since.

The Chairman [1] overruled the point of order.

1326. A provision in an annual appropriation bill that rates of compensation therein appropriated should constitute the permanent rate of compensation until otherwise provided by law was held to establish salaries only and not the offices for which provided.[2]

On December 17, 1914,[3] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the paragraph providing appropriations for salaries of personnel of the Indian Office.

Mr. Charles L. Bartlett, of Georgia, made the point of order that there was no authority of law for certain offices provided for therein.

Mr. James R. Mann, of Illinois, also reserving a point of order, said:

If any portion of the clause is subject to a point of order, the entire clause is subject to it. There is no doubt whatever that under the law and the rules existing prior to the passage of the legislative act of last year the mere carrying of an office in any appropriation bill was not to be considered as permanent law to authorize it to be inserted in an ensuing appropriation bill;

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[1] John N. Garner, of Texas, Chairman.

[2] Subsequently the following provision in reference to the employees carried in the legislative, executive and judicial appropriation bill was enacted:

"The officers and employees of the United States whose salaries are herein appropriated for are established and shall continue from year to year to the extent they shall be appropriated for by Congress." Volume 38, U. S. Statutes at Large, p. 1049.

On a similar question of order on Mar. 10, 1916, Record, p. 3923, first session Sixty-fourth Congress, Chairman Crisp referred to this law as establishing such offices and fixing the salaries.

On Jan. 6, 1922, Congressional Record, p. 907, second session Sixty-seventh Congress, Chairman John Q. Tilson referred to this law as sufficient authorization for appropriations for officers and employees appropriated for by this appropriation bill

[3] Third session Sixty-third Congress, Record, p. 308.

and I take it to be true—I think the gentleman so asserted, and his assertion is good—that there is no permanent law in the form of an enactment providing for a second assistant commissioner in the Indian Office. That is also true, I believe, of the various financial clerks, of various chiefs of division, law clerk, of assistant chief of division, expert accountant, private secretary, examiner of irrigation accounts, draftsmen, and various other officials, and I shall make the point of order on all of them if this is sustained.

Let us find out where we are. Last year, because of the fact that most of the items in the legislative bill were subject to a point of order, and because of the fact that it is practically impossible in one year to name all the officers in the different departments of the Government for permanent employment without there being an opportunity to increase the number next year, because most of the places named in the legislative act were subject to a point of order under the rules as heretofore construed, Congress provided in the legislative act in section 6, which my friend from Georgia has already quoted, as follows:

"That all laws or parts of laws to the extent they are inconsistent with rates of salaries or compensation appropriated by this act are repealed, and the rates of salaries or compensation of officers or employees herein appropriated shall constitute the rate of salary or compensation of such officers or employees, respectively, until otherwise fixed by annual rate of appropriation or other law."

The Chair is called upon now to make a very important ruling, and the question is whether where Congress fixes a salary for an office it thereby authorizes the office itself. That is the only question involved here.

Now, if we fail to make an appropriation for an office, the officer can not bring a claim in the Court of Claims. If we specifically provided by legislation for the office of Second Assistant Commissioner of Patents at $2,750 a year and failed to make the appropriation, the Second Assistant Commissioner of Patents could bring a suit in the Court of Claims, and we would have to pay the salary. This section 6 was carefully prepared, and it gives to the House the right this year to treat as permanent law any office the salary of which was fixed in the legislative bill of last year. But if we drop it out this year, it does not give the officer any chance to make a claim in the Court of Claims.

If the Chair holds that while we fix the salary for the office we do not authorize the office, the legislative bill becomes the whim of any one Member of the House. You can not provide by law that there shall be so many clerks, so many other officials, so many law clerks, so many private secretaries, so many chiefs of division, as permanent law without tying the hands of the House, which primarily makes the appropriation for the departments in Washington. I hope the Chair will overrule the point of order made by myself, as well as the point of order made by my distinguished friend from Georgia.

The Chairman [1] ruled:

The Chair remembers distinctly when this matter was before the House in reference to the points of order made against increase of salaries on appropriation bills above that fixed by law. The Chair thinks and believes that it was the intention of Congress that the salary of all officers which were provided for by law and which were authorized to be provided for in appropriation bills should be permanently fixed according to the appropriation bill of 1914 of last year.

Now, the Chair does not take it that Congress intended in that provision to authorize all offices not provided by law, but only to fix the salaries of those offices which were provided by law according to section 6 of the act of July 16, 1914, and that the contention of the gentleman from Illinois that that provision made permanent all offices provided for in the last year's appropriation bill was not the intention of Congress, and the provision in the law did only apply to salaries and not to the offices not provided by law, and so the Chair sustains the point of order.

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[1] Martin D. Foster, of Illinois, Chairman.

1327. Construction of the law authorizing the employment of "watchmen, messengers, and laborers" in the executive departments.

On February 19, 1916,[1] the Post Office Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

For compensation to watchmen, messengers, and laborers, 1,800, at $840 each; in all, $1,400,000.

Mr. Thomas U. Sisson, of Mississippi, made the point of order that there was no authority for the appropriation.

The Chairman[2] ruled:

The item carried in last year's appropriation bill provided for the payment of 1,800 watchmen, messengers, and laborers, 900 of them to receive $840 and 900 to receive $720 each. The item we are considering provides for the payment of $840 to each of 1,800 watchmen, messengers, and laborers. Section 169 of the Revised Statutes provides that:

"Each head of a department is authorized to employ in his department such number of clerks of the several classes recognized by law, and such messengers, assistant messengers, copyists, watchmen, laborers, and other employees and at such rates of compensation, respectively, as may be appropriated for by Congress from year to year."

Now, if this item remains in the bill, Congress will appropriate this year for 1,800 watchmen, messengers, and laborers at the rate of $840 each per year if the head of this department desires to employ that many at that compensation. This matter has been considered in the House before. It came up on March 27, 1906, upon the proper construction of the law authorizing the employment of watchmen, laborers, and other employees in the executive departments. I have just read the statute.

On March 23, 1906, the legislative appropriation bill was being considered in the Committee of the Whole House on the state of the Union when the gentleman from Georgia, Mr. Hardwick, made the point of order that there was no law to authorize a proposed appropriation for "one telephone-switchboard operator in the Department of State." At that time the Chairman, Mr. Olmsted, of Pennsylvania, said:[3]

"This is an appropriation for a telephone-switchboard operator in the Department of State, which is an executive department."

Then, after quoting the section of the Revised Statutes I have read, he proceeded as follows:

"The telephone-switchboard operator may fairly be classed as a sort of laborer, skilled laborer, within the spirit and intendment of the statute.

"The Chair is of opinion that this case is covered and the appropriation authorized by section 169 and overrules the point of order."

The Chair thinks that section 169 of the Revised Statutes applies here, and under section 169 of the Revised Statutes, if this section is enacted into law, the Postmaster General would be authorized by law to employ these 1,800 clerks at $840 each, or as many of them as may be needed. The law clearly provides that he can employ them—messengers, watchmen, and laborers—at the compensation flxed each year by Congress.

The point of order is overruled.

1328. A general law authorizing the promotion of clerks from one class to another, without limitation as to number, a provision for the promotion of any number is in order.

On January 11, 1917,[4] the Post Office Department appropriation bill was under consideration in the Committee of the Whole House on the state of the

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[1] First session Sixty-fourth Congress, Record, p. 2850.

[2] Henry T. Rainey, of Illinois, Chairman.

[3] Hinds' Precedents, section 3669.

[4] Second session Sixty-fourth Congress, Record, p. 1238.

Union, when the Clerk read a paragraph providing an appropriation to permit the promotion of clerks from one grade to another.

Mr. William E. Cox, of Indiana, made the point of order that the paragraph provided for the promotion of a larger percentage of clerks than provided for in previous appropriation bills and was unauthorized.

The Chairman [1] said:

The Chair confesses that he has some doubts about the, point of order, but as the Chair sees it, the classification act simply classified certain postal employees, and the law did not require any number to be promoted in one year. The last appropriation bill provided that 75 per cent of these particular carriers and clerks might be promoted. That was not permanent law; but it was simply to obtain during that current law. The Chair is of the opinion that as this section authorizes the promotion of clerks within those classes that the point of order is not good. Therefore, the Chair overrules the point of order.

1329. Payment of per diem allowances in lieu of subsistence due employees of the executive departments is authorized by law.

On February 3, 1920,[2] the second deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

BUREAU OF LABOR STATISTICS.

For per diem in lieu of subsistence, special agents, and employees, and for their transportation; experts and temporary assistance for field service outside of the District of Columbia, to be paid at the rate of not exceeding $8 per day; traveling expenses of officers and employees, purchase of reports and materials for reports and bulletins of the Bureau of Labor Statistics, and for subvention to "International Association for Labor Legislation," and necessary expenses connected with representation of the United States Government therein, $12,250.

Mr. Thomas L. Blanton, of Texas, raised the question of order that the paragraph was not authorized by law.

Mr. James W. Good, of Iowa, submitted:

Mr. Chairman, the sundry civil appropriation act for the fiscal year 1915 provides:

"That the heads of executive departments and other Government establishments shall authorize and prescribe per diem rates of allowance not exceeding $4 in lieu of subsistence to persons engaged in field work or traveling on business outside of the District of Columbia and away from their designated posts of duty, when not otherwise fixed by law. For the fiscal year 1916 and annually thereafter estimates of appropriations from which per diem allowances are to be paid shall specifically state the rates of such allowances."

The section just read is permanent law, and has been so construed by the auditor and Comptroller of the Treasury.

The Chairman [3] overruled the point of order.

1330. The law creating the Department of Agriculture authorizes appropriations for salaries of employees essential to its proper maintenance without designating the names of positions in which they shall serve, and in the absence of statutory provision to the contrary it is in order in an appropriation bill to name such position or to change the name of any division, bureau, or office previously appropriated for.

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[1] Charles R. Crisp, of Georgia, Chairman.

[2] Second session Sixty-sixth Congress, Record, p. 2401.

[3] John Q. Tilson, of Connecticut, Chairman.

On December 20, 1922,[1] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A paragraph was read providing appropriations for salaries of employees in the offices of editorial and distribution work, including "Assistant in charge of editorial office, $5,000," on which Mr. Albert Johnson, of Washington, made a point of order.

Mr. John Q. Tilson, of Connecticut, explained that this position was one carried in previous bills under a different title, and paid for out of the lump sum appropriation for extension work.

Mr. Tilson continued:

As I view this question, Mr. Chairman, it makes no difference whether it is a new position or an old one. Whether it is a transfer from a lump-sum appropriation or whether it is entirely new, the question is whether the service here proposed to be appropriated for is a service authorized by the law.

Some of us who sometimes give attention to parliamentary questions have been fooled on this Agricultural appropriation bill before. The organic law of the Department of Agriculture is broader than that of any other department in the whole Government, so that the rules applicable to other departments do not apply in many cases to the Agricultural Department on account of this difference in the organic law of the department.

"For the diffusion among the people of the United States of useful information in connection with the subject of agriculture in the most general and comprehensive sense of that word."

If these words were stricken out here it would make no difference. The Secretary of Agriculture could put the same man now holding the position on again at the same salary. In order to prevent this, the gentleman would have to put in a limitation by means of an amendment to the effect that no man who is employed by the Department of Agriculture as an editor shall receive more than $3,500, if that is the limit to which the gentleman is willing to go in salaries for editors.

This service is authorized by the fundamental law creating the Department of Agriculture, and we are here called upon to appropriate for it under a name. It makes no difference what the name is, whether it has a name at all. We are authorized under the law to appropriate for it if we so desire, and therefore, in my judgment, Mr. Chairman, it is not subject to a point of order. I do not think anyone here claims this creates an office. It is not legislation at all. It is simply an appropriation.

The Chairman[2] ruled:

The Chair realizes that there are complications in this point of order and appreciates the force of the argument advanced, but last year an almost similar situation arose, and at that time the Chair went into the matter very thoroughly and quoted a number of authorities. Without taking the time of the committee to rehearse the precedents, it seems to the Chair that the gentleman from Connecticut, Mr. Tilson, has expressed the controlling factor in this case, and that is: Does the authority to engage these employees rest with the Department of Agriculture under existing law? The law creating that department and the law under which it is operated is probably the broadest of any law relating to any department of the Government, and last year when an appropriation for a new employee was presented against which a point of order was made the Chair addressed himself to the question whether the Secretary of Agriculture has the authority. The Chair thought then and thinks now that he has, and basing his decision on that decision rendered by the present occupant of the chair, and fortified further by a decision of Chairman Towner on January 24 last, the Chair believes that this item is in order and therefore overrules the point of order.

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[1] Fourth session Sixty-seventh Congress, Record, p. 796.

[2] Frederick C. Hicks, of New York, Chairman.

Mr. Gilbert N. Haugen, of Iowa, here interposed a further point of order that:

It changes the title of "Division of publications" to "Offices of editorial and distribution work."

The Chairman concluded:

The gentleman from Iowa makes the point of order that it is a change of title and therefore legislation. The Chair agrees with the gentleman from Minnesota that the appropriations have not been altered by a change of name and that it is not legislation. By giving a title is simply a method to designate certain activities, and therefore a change of name by the department is not a change of authority or the creation of a new activity. No legislation was enacted to create the title and no legislation is proposed creating a new bureau. The Chair overrules the point of order.

1331. An appropriation to increase the authorized salary of the engineer commissioner of the District of Columbia was held not to be in order on an appropriation bill.

On May 1, 1924,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph providing appropriations for personal services was reached.

Mr. Thomas L. Blanton, of Texas, made the point of order that the increase of salary for the engineer commissioner of the District from $5,000 to $7,000 proposed in the paragraph was not authorized by law.

The Chairman[2] decided:

The Chair thinks that he has a fairly intelligent idea of this matter. The appropriation act covering the general expenses of the District of Columbia for 1981 is found in Twenty-first Statutes at Large, on page 460. It first provides for two commissioners at $5,000 each, for a secretary and certain other subordinate officers who are named, and then contains this language:

"And hereafter the engineer commissioner shall be entitled to receive such compensation in addition to his Army pay and allowances as will make his compensation equal to $5,000 per annum, and a sum sufficient to pay such additional compensation is hereby appropriated."

The committee will observe that that language is legislative, that hereafter he shall receive a certain amount for his salary. How it got into this appropriation act I do not know. Evidently no point of order was made to it, or similar rules did not obtain at that time as obtain now. In any event it is legislation and nothing has been indicated to the Chair that there has been any change in that legislation, so that the salary is fixed by law at $5,000. The language in the bill does not purport to change the law. It simply makes an appropriation. It reads:

"For personal services in accordance with the classification act of 1923, $40,500, plus so much as may be necessary to make the salary of engineer commissioner $7,500."

That, of course, is appropriation language and not legislative, so that no change of law is made by that. The Chair is referred to the hearings before the subcommittee of the House Committee on Appropriations in regard to the District of Columbia appropriation bill for 1925, page 546, giving the classification of salaries as established by the reclassification act. It is true, as the gentleman from Michigan [Mr. Cramton] says, that in that report indicating the base pay of the District commissioners for 1924, the sum of $5,000 is fixed, and then the report fixes the pay for 1925 at $7,500, for two commissioners. But that is not all that appears here. The line to read it in full, is as follows:

"Commissioners, 2, service, C. A. & F., grade 14, $7,500."

That shows plainly that the classification act extends only to the two commissioners and not to the engineer commissioner. The Chair thinks that must be the situation, that the classification act did not extend at all to the Army officer who temporarily sits with the District Commissioners, and for that reason the point of order is sustained.

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[1] First session Sixty-eighth Congress, Record, p. 7650.

[2] William J. Graham, of Illinois, Chairman.

Chapter CCXXII.[1]

APPROPRIATIONS IN CONTINUATION OF A PUBLIC WORK.

1332. An appropriation in violation of existing law is not in order for the continuance of a public work.

On February 1, 1913,[2] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

Bathing beach: For superintendent, $600; watchman, $480; temporary services, supplies, and maintenance, $2,250; for repairs to buildings, pools, and the upkeep of the grounds, $1,500, to be immediately available; in all, $4,830.

Mr. Ben Johnson, of Kentucky, made the point of order that whereas existing law provided for construction and maintenance of these beaches from revenues of the District of Columbia, the pending paragraph provided an appropriation to be paid half from revenues of the District of Columbia and half from the Federal Treasury.

The Chairman[3] held:

The Chair entirely agrees with the statement just made with reference to public schools or playgrounds, and concedes the authority of Congress by appropriation to provide for their continuance as a public work after they have once been put into operation. But the Chair would not agree if there were a general act, or special act, originally providing for the construction and maintenance of those buildings if thereafter an appropriation were sought to be made upon terms contrary to the act of original authorization under which they were first brought into existence and maintained. In regard to this particular paragraph against which the point of order is now made, if the paragraph for a bathing beach, and so forth, had appeared in this appropriation bill prior to the passage of this act of 1890, it would have been subject to the point of order, because there was no law authorizing it, either wholly out of District revenues or by half-and-half

[1] Supplementary to Chapter XCVI.

[2] Third session Sixty-second Congress, Record, p. 2449.

[3] S. A. Roddenberry, of Georgia, Chairman.

appropriation. On September 26, 1890, however, an act was passed, the first section of which reads.

"That the Commissioners of the District of Columbia are hereby authorized and permitted to construct a beach and dressing houses upon the east shore of the tidal reservoir against the Washington Monument Grounds, and to maintain the same for the purpose of free public bathing, under such regulations as they shall deem to be for the public welfare; and the Secretary of War is requested to permit such use of the public domain as may be required to accomplish the objects above set forth."

The second section is as follows:

"That the sum of $3,000 is hereby appropriated from the revenues of the District of Columbia, to be immediately available, for the purposes of this act."

It is of course assumed that the $3,000 was expended for the purposes of this act as provided in section 1. The purposes of the act as set out in section 1 are "to construct a beach and dressing houses," and so forth, and "to maintain the same." Then, if any subsequent appropriation is sought to be made for the maintenance, repair, and continuance of this public work, why not follow the act in pursuance of which the first appropriation was made? Why discard the special act of Congress passed for this specific purpose and rely upon an implied authority, derived from another law of prior existence?

In the view of the existing statute on the subject, the entire act being, according to familiar rule, construed together, a judicial officer would be required under rules of law to look to the intention of the legislation and to the intention, if necessary to be resorted to, of the legislators at the time the act was passed. It seems to the Chair that if it was intended by Congress at the time of passing the act of 1890 that the construction and maintenance of the bathing beach would be chargeable to the District of Columbia for one year only, and that thereafter the maintenance and repair of the bathing beach would be chargeable and appropriated for under the half-and-half clause, then Congress would undoubtedly have said so in the act, either by express provision to that effect or by words of limitation. There is no ambiguity in the language contained in the act of 1890; there is no conflict or want of harmony between the two sections; the last is the logical sequence to the first, and it fixes the expense of the enterprise wholly on the District. This being true, as is apparent from a clear reading of the act itself, the Chair is forced to the legal conclusion, giving to words their usual and ordinary meaning and significance, that the bathing beach, as authorized and appropriated for by the act, was to be for free public bathing in the District of Columbia, to be constructed and maintained wholly from the revenues of the District. At any rate, that is what the law which brought the beach into existence says. In that view of the case, the Chair is compelled to sustain the point of order.

1333. An amendment providing for the completion and maintenance of roads, bridges, and trails in Alaska held not to fall within the rule that appropriations may be made on an appropriation bill for a work in progress.

The tendency of later decisions is to limit the application of the principle of making in order appropriations for work in progress.

On February 21, 1917,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Julius Kahn, of California, offered this amendment:

Protection, repair, and maintenance of military post roads, bridges, trails, Alaska: For the completion, repair, and maintenance of military post roads, bridges, and trails, Territory of Alaska, $500,000.

Mr. William Gordon, of Ohio, made the point of order that the amendment was not authorized by law.

[1] Second session Sixty-fourth Congress, Record, p. 3818.

The Chairman [1] held:

This amendment is, of course, an attempt to apply the principle that appropriations may be made to a work in progress, to this scheme of proposed roads. In the first place, the Chair will say that there has been a tendency to narrow the application of that principle. But entirely apart from that tendency, the committee which proposes to appropriate for a work in progress should have some original authority in that connection. This authority is entirely lacking in this committee in the present connection. If there is any authority anywhere to appropriate for these roads as a work in progress that authority is not found in this committee. Under the act which the Chair has read, this committee is not authorized to make appropriations for the Alaskan roads. A special fund for the construction of these roads is provided in the Alaskan act. That provision does not give the right to this committee, either by virtue of the principle of a work in progress or on any other ground, to appropriate for the roads in question.

The Chair a moment ago referred to the tendency to limit the application of the principle of making appropriations for work already in progress. In that connection I desire to read a citation which has just been handed to me:

"But later decisions, in view of the indefinite extent of the practice made possible by the early decisions, have ruled out propositions to appropriate for new buildings in navy yards."

What could be a larger application of this principle than to hold that if this board has outlined a large scheme of road construction in Alaska, and done some work here and there in connection with the same, this committee, or any committee, is thereby authorized to appropriate the funds necessary to complete every road contemplated by that scheme or project?

In section 29 of the act which the Chair has cited may be found an elaborate provision for road construction in Alaska by a board to be composed of an engineer officer of the United States two other officers, and so on. At the conclusion of that section it is specifically stated that the cost and expense of laying out, constructing, and repairing these roads and trails in the Territory shall be paid by the disbursing officer out of the "roads and trails" portion of the Alaskan fund. The Chair thinks that the point of order directed to this paragraph is well taken, and it is therefore sustained.

1334. A public work to come within the terms of the rule must be actually "in progress" according to the usual significance of the words.

On January 26, 1921,[2] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

To supplement the $75,000 appropriation now available for the construction of a laboratory building on the Arlington farm, property of the Department of Agriculture, as permanent headquarters for the testing and research work of the Bureau of Public Roads, $35,000.

Mr. Gilbert N. Haugen, of Iowa, made the point of order that the appropriation was not authorized by law.

In response to an inquiry from the Chairman as to whether work on the building had actually begun, Mr. Sydney Anderson, of Minnesota, said:

No; it has not. I should like to say in that connection that the bureau could have commenced the construction of this building and then have come in and asked for a deficiency appropriation, or it could have commenced the construction of the building and then come to Congress and said it did not have enough money to finish it, and we would have been practically compelled to make the appropriation. The chief of the bureau did not follow that course. He did not want to put us in that position. So, finding that the sum was inadequate to construct the kind of building that ought to be constructed for these purposes, he did not cause the construction of the building

[1] Edward W. Saunders, of Virginia, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 2076.

to be begun, and it is not under construction to-day. I presume that under these circumstances the item is subject to a point of order.

The Chairman [1] sustained the point of order.

1335. A provision in current law for "grading, filling, and sea-wall construction" was held to indicate a work in progress within the meaning of the rule.

An appropriation to continue a project authorized by existing law without limitation of cost was held in order on an appropriation bill.

On February 12, 1921,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

Navy yard, Puget Sound, Wash.: For grading, filling, and sea-wall construction, $250,000; keel blocks for Dry Dock No. 2, $6,500; extension of building No. 178, $13,500; roadways and sidewalks, $25,000; Pier 5, rebuilding and extending, $715,000; telephone improvements, $10,000; pattern shop extension, $90,000; 50-ton dry-dock crane, $200,000; storehouse for ordnance, $95,000; in all, $1,405,000.

Mr. Fred A. Britten, of Illinois, raised a question of order on the provision.

The Chairman [3] ruled:

The Chair will state that this item—"for grading, filling, and sea-wall construction"—is in the current law. Apparently it is a work already in progress; and there being nothing to indicate that there is any limit of cost on the work, It would appear to be a continuation of a work heretofore authorized and in progress, and therefore in order; and the Chair overrules the point of order.

1336. By "public works and objects already in progress" is meant actual works, not plans; specific projects capable of completion within reasonable time, and not mere proposed undertakings of a general and indefinite nature as the building of a town which might continue indefinitely.

An appropriation to purchase a site and replace thereon a town in exchange for one flooded by the reservoir of a Government irrigation project was held not to be authorized by law.

On February 16, 1922,[4] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

To purchase or condemn and to improve suitable land for a new town site to replace the portion of the town of American Falls which will be flooded by the reservoir, and to provide for the removal of buildings to such new site and to plat and to provide for appraisal of lots in such new town site and to exchange and convey such lots in full or part payment for property to be flooded by the reservoir and to sell for not less than the appraised valuation any lots not used for such exchange, $1,200,000.

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[1] Frederick C. Hicks, of New York, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 3089.

[3] Joseph Walsh, of Massachusetts, Chairman.

[4] Second session Sixty-seventh Congress, Record, p. 2673.

Mr. Bertrand H. Snell, of New York, made a point of order on the paragraph. In discussing the point of order Mr. James R. Mann, of Illinois, said:

Mr. Chairman, I should like to make this suggestion about this public-works matter. A public work has always been considered, with one exception, as an actual work, not a plan. The only exception to that is in reference to the Navy, where long ago a Chairman of the Committee of the Whole House on the state of the Union arbitrarily ruled that the construction of a new battleship was in continuation of the work of building up the Navy. I think that is the only exception. I will not undertake to apply that to this case, because I am not familiar enough with the case to apply it; but this is very sure: Suppose the commission recommends the acquirement of a lot of land for a public park and Congress appropriates money for the purchase of a particular part of that land. That purchase can be made, but that would not authorize an appropriation for the purchase of the remainder of the land as a part of the public work at all. The distinction is not hard to make, and the public work has to be an actual work, not a plan.

The Chairman [1] decided:

This paragraph provides:

"For operation and maintenance, continuation of construction, and incidental operations, with authority in connection with the construction of American Falls Reservoir, to purchase or condemn and to improve suitable land for a new town site to replace the portion of the town of American Falls which will be flooded by the reservoir, and to provide for the removal of buildings to such new site and to plat and to provide for appraisal of lots in such new town site and to exchange and convey such lots in full or part payment for property to be flooded by the reservoir and to sell for not less than the appraised valuation any lots not used for such exchange, $1,200,000."

The point of order is made that the provision relative to the acquisition of lands for a new town site, for the removal of buildings to the new town site, and the platting and appraisal of lots there is not authorized by existing law.

The section of the reclamation act which has been referred to several times already in the discussion of this bill, section 7, provides:

"That where in carrying out the provisions of this act it becomes necessary to acquire any rights or property, the Secretary of the Interior is hereby authorized to acquire the same for the United States by purchase or by condemnation"—

and so on; giving to the Secretary of the Interior the right to purchase or condemn sites for reclamation projects.

On reflection, and without any direct precedents to guide the Chair, he is inclined to recur to the ordinary rules of interpretation of such matters. For instance, if a municipality is authorized by law to condemn certain sites for purposes of public buildings, and is given by law the right of eminent domain, it does not follow as a consequence that the municipality can condemn other lands to give some one in exchange for the lands that have been thus taken. The same thing is true as to a public service corporation which is given the right of eminent domain. The fact that the corporation agrees to give another piece of land in exchange for one taken does not give the right to condemn the other piece of land which it might exchange for the one the corporation has taken.

There is some distinction, but none in principle so far as the act that we rely on here is concerned. It seems to me the power given to the Secretary of the Interior is the right to condemn or to pay and to settle for such lands as are taken and are injured by the proposed improvement.

The Chair does not believe that it follows as an incident of that power that the Secretary of the Interior has the right to buy other lands or to condemn, if you please, other lands, and give them to persons injured in the settlement of claim for damages. The power is restricted, and a strict interpretation of the authority must be made. The power is to condemn or purchase such lands as the Government finds necessary for the actual construction of the proposed improvement.

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[1] William J. Graham, of Illinois, Chairman.

One other question remains, and that is whether this is to be considered as a continuation of a public work. The rule of the House on that subject is as follows, and is familiar, I have no doubt, to all Members:

"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, unless in continuation of appropriation for such public work and objects as are already in progress."

There is a remarkable scarcity of direct precedents on this subject. The Chair is obliged largely to rely upon his impressions as to what a public work is as meant by this rule. In the current law there is a similar appropriation for this purpose, and I am advised that that work is already in progress. But a public work, it seems to the Chair, must necessarily mean some distinct work, such as building a ditch, a dam, a building, something that is tangible and is distinct and separate from other things. This is a proposition to build a town, abroad general proposition, including streets and alleys and buildings and transporting the buildings—how many buildings no one knows. It does not appear to the Chair that that can be considered a public work that is in progress. The power is too broad. The proposition of building a town necessarily is so extensive that if the Chair was to construe that as a public work it seems the power given to department heads would be almost as extensive as they desire to have it.

The Chair would say that if the authorization here was for the continuation of a dam or of a building or of a particular irrigation canal, the Chair would agree that it might be construed as an appropriation in continuation of a public work already in progress. But the language of this section is:

"To purchase or condemn and to improve suitable land for a new town site to replace the portion of the town of American Falls which will be flooded by the reservoir, and to provide for the removal of buildings to such new site and to plat and to provide for appraisal of lots in such new town site and to exchange and convey such lots in full or part payment for property to be flooded by the reservoir"—

And so forth, which goes far beyond an appropriation for any specific public work.

There is no doubt about the authority of the Reclamation Service to purchase or condemn all lands necessary for the construction of an irrigation system. But this is not for an irrigation system. It is for a town site, not for irrigation, but to house settlers who have been removed from the irrigation project.

The point of order is sustained. Inasmuch as the point of order was made to the whole paragraph, it will have to be sustained to the whole paragraph.

1337. The phrase "public works and objects as are already in progress" refers to such tangible things as structures, bridges, buildings, etc., and not to such intangible matters as investigations, inquiries, etc.

On March 31, 1908,[1] the Agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, and the Clerk had read the following:

To investigate the effect of cold storage upon the healthfulness of foods.

Mr. James B. Perkins, of New York, having raised a question of order, Mr. James R. Mann, of Illinois, suggested that the provision was in order as a continuation of a work in progress.

Mr. Edgar D. Crumpacker, of Indiana, took issue:

Has it not been decided on several occasions that the term "object already in progress" refers to some tangible thing, some structure like a bridge or a building, and not to an investigation or an inquiry like this? I think the gentleman will find several decisions defining that term and to that effect.

[1] First session Sixtieth Congress, Record, p. 4189.

The Chairman [1] decided:

The Chair thinks it is exceedingly unfortunate that the point of order should be raised upon a provision of this kind, which has been included in bills heretofore for two or three years, and upon what must necessarily be more or less of a continuing nature, and thereby prevent the Committee of the Whole from passing upon the merits of the proposition. But the precedents of the House are all in favor of the point of order, both upon the question of the investigation itself and upon the point raised by the gentleman from Illinois. The precedents may be summed up in this language:

"Investigations of foods in their relation to commerce and consumption were held not authorized by law in such a way as to permit an appropriation on the agricultural appropriation bill."

And, on the point raised by the gentleman from Illinois, that this is a continuing work the precedents are all clearly against the position taken by the gentleman from Illinois. The Chair, therefore, is forced to sustain the point of order.

1338. Fulfillment of a condition precedent necessary to authorize an appropriation having been certified in an official report, provision for such appropriation was held to be in order on an appropriation bill.

On June 20, 1930,[2] the second deficiency appropriation bill was being considered in the Committee of the Whole House on the state of the Union.

When the paragraph making appropriation for the Boulder Dam project, under the Bureau of Reclamation, was reached, Mr. Lewis W. Douglas, of Arizona, made the point of order that the appropriation was not authorized.

After exhaustive debate, the Chairman [3] ruled:

The Chair will state before any other argument is commenced that the gentleman from Arizona very kindly and entirely in accordance with the wishes of the Chair submitted his brief to him some days ago. The Chair has therefore been advised of the situation, and the Chair believes that he is ready to rule unless there is some one else in support of the point of order who desires to be heard.

The point of order is that this appropriation violates Rule XXI, clause 2, of the Rules of the House, reading as follows:

"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, unless in continuation of appropriations for such public works and objects as are already in progress."

There is no claim that the present appropriation comes within the last clause of the rule which has just been read. The claim is that there is no authorization in existing law under which this appropriation can be made.

The Boulder Canyon project act approved December 21, 1928, contains the following, section 3:

"There is hereby authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such sums of money as may be necessary to carry out the purposes of this act, not exceeding in the aggregate $165,000,000."

There is no claim that that authorization, standing alone, would not cover every item contained in the appropriation now pending before the committee. The claim is, however, that the authorization granted in section 3 is modified and controlled by the following provision in paragraph (b) of section 4, namely:

"Before any money is appropriated for the construction of said dam or power plant, or any construction work done for or contracted for, the Secretary of the Interior shall make provision

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[1] David J. Foster, of Vermont, Chairman.

[2] Second session Seventy-first Congress, Record, p. 11356.

[3] Carl R. Chindblom, of Illinois, Chairman.

for revenues by contract, in accordance with the provisions of this act, adequate in his judgment, to insure payment of all expenses of operation and maintenance of said works incurred by the United States and the repayment, within 50 years from the date of the completion of said works, of all amounts advanced to the fund under subdivision (b) of section 2 for such works, together with the interest thereon, made reimbursable under this act."

The pertinent question before the Chair, therefore, is the construction of that proviso in the Boulder Canyon project act contained in paragraph (b) of section 4. It is a most unusual provision. The gentleman from Arizona argues that it is a prohibition against the power of Congress to make any appropriation unless certain conditions precedent have been complied with. A pertinent inquiry becomes: What is the condition precedent before an appropriation may be made? The gentleman contends that the various contracts must have been properly made within the meaning and according to the conditions of the act, and that the chairman presiding in the Committee of the Whole House on the state of the Union has the duty to determine for himself and to rule upon the question whether those contracts have properly been made, whether they are in legal force and effect, and whether they have in general complied with the terms of the law.

The Chair thinks that the language of paragraph (b), section 4, must be construed, viewing it in its entirety, as creating a condition precedent to the effect that the Secretary of the Interior shall have made provisions for revenues, by contract, in accordance with provisions of the act, adequate, in his judgment, to insure the payment of all expenses of operation, and so forth.

The question then is: How is compliance of the Secretary of the Interior with that condition, precedent to be evidenced? How is his compliance with that condition to be brought to the attention of Congress and of the presiding officer of the Committee of the Whole House?

We have a budget law under which the President sends estimates of appropriations, and in which he sets forth the grounds upon which he bases a suggestion or an estimate for an appropriation. The President of the United States, in compliance with the budget law, on the 1st of May, 1930, sent a communication to the Speaker of the House, and this is a public document, brought to the attention of the House officially, in which he transmits, for the consideration of the Congress, a supplemental estimate of appropriation for the Department of the Interior for the fiscal year 1930, to remain available until expended, for the items contained in the appropriation now in question. With his own letter the President submitted a communication from the Bureau of the Budget. The Director of the Bureau of the Budget made this statement in his communication to the President:

"The purpose of this estimate is to provide funds for the commencement of construction work on the Boulder Canyon project authorized by act of December 21, 1928. The Secretary of the Interior advises that, as required by the act, contracts have been secured which will provide revenues adequate in his judgment to pay operation and maintenance costs and to insure the repayment to the United States within 50 years from date of completion of the dam, power plant, and related works, of all amounts to be advanced for the construction of such works, together with the interest thereon made reimbursable by the act."

In other words, the Director of the Budget advised the President and the President advised Congress that the Secretary of the Interior has advised or certified to the Director of the Budget that he has complied with the conditions precedent set forth in section 4, paragraph (b), of the Boulder Canyon project act.

It is argued that it is the duty of the Chairman of the Committee of the Whole House on the state of the Union to go back of the report by the Secretary of the Interior that he has complied with the conditions precedent for the appropriation. The Chair does not think the Boulder Canyon project act makes that requirement of the Committee of the Whole or of its chairman. The Chair thinks that the Appropriations Committee, in the first place, the Committee of the Whole, in the second place, and the House, in the third place, under the law, would have full authority to rest its appropriation upon the report from the Secretary of the Interior that he has complied with the conditions precedent for the appropriation. However, it is perfectly proper for the Committee on Appropriations in this case, as in other cases, to ascertain for itself whether the Congress should make the appropriation, notwithstanding the fact that the conditions precedent may have been

complied with. It is perfectly proper for the Committee of the Whole House on the state of the Union to make a similar inquiry and for the House itself to make such an inquiry. When that is done the discussion by the gentleman from Arizona with reference to the contracts will be pertinent, and the Chair was disposed to permit the gentleman to complete his argument—although the Chair held the view then which he holds now—in the hope that the presentation of the matter at that time would obviate further discussion of that subject matter.

The Chair has, after much consideration, not only during the presentation of his point of order by the gentleman from Arizona, but prior to this discussion to-day, reached the conclusion that the point of order is not well taken and it is therefore overruled.

1339. While alteration and adaptation of public buildings belonging to the Government is held to be continuation of a work in progress within the meaning of the rule, the alteration and adaptation of a building not the property of the Government, even though under its control, was held not to be such a work in progress and subject to a point of order.

The Smithsonian Institution though under the control of the United States is not Government property and an appropriation for its alteration or repair is not in order on an appropriation bill.

On April 29, 1908,[1] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. John Dalzell, of Pennsylvania, offered an amendment providing an appropriation for alterations in the building of the Smithsonian Institution.

Mr. James A. Tawney, of Minnesota, having raised a point of order, the Chairman[2] held:

The amendment proposed by the gentleman from Pennsylvania is as follows:

"Gallery of Arts: For the adaption of the Smithsonian Institution building for the purposes of an art gallery."

The Chair thinks the amendment is subject to the point of order. Whether the Smithsonian Institution be a public institution, a private institution, or a quasi-public institution, it is quite sure that neither the building of the Smithsonian Institute nor the ground on which that building rests belongs to or is the property of the United States. It is quite true that this is an institution authorized by the United States, and by acts of Congress, but that does not make it a Government building or a Government project. It is also true that section 5586 of the organic act recites:

"Whenever suitable arrangements can be made for their reception, all objects of art"—

And other things mentioned—

"shall be delivered to such persons as may be authorized by the Board of Regents to receive them, and shall be so arranged and classified in the building erected for the Institution as best to facilitate the examination and study of them."

That refers, not to the building, but to the collection of art. Now, the proposition of the gentleman from Pennsylvania is to change the building. The Chair thinks that it is not "a work in progress," and therefore is subject to the point of order.

It is quite true that the supreme court of this District rendered a decision, which the Chair has not had an opportunity to examine fully, but from a cursory examination it appears that this decision has reference to the National Art Gallery, or collection of art, and not to the building itself. The court finds:

"First. In founding the Smithsonian Institution it was the intention of the Government to provide for an art gallery."

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[1] First session Sixtieth Congress, Record, p. 5449.

[2] James E. Watson, of Indiana, Chairman.

The Government might provide for an art gallery and yet not provide for a building in which to place the art gallery.

"Second. Congress has always recognized the art gallery and made constant provision therefor in the legislation from 1846 to the present day. The debates and journals and records of Congress will furnish abundant recognition on the part of the Government of the National Art Gallery."

The Chair has no doubt on the proposition that that does not refer to the building, but to the art gallery. It is quite separate and apart from the building or grounds. The same may be said of the other point made in this decision. The Chair thinks this is a proposition to change a building which does not belong to the Government, and is not, therefore, "a work in progress," and is subject to the point of order. The Chair therefore sustains the point of order.

1340. A work in process of construction but paid for from a designated fund was held not to constitute a "work in progress" within the meaning of the rule.

The building of roads in Alaska under a law providing for their construction from the "Alaska fund" was held not to be such a work in progress as to warrant an appropriation on an appropriation bill.

On February 1, 1909,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

Construction and maintenance of military and post roads, bridges, and trails, Alaska: For the construction and maintenance of military and post roads, bridges, and trails in the district of Alaska, to be expended under the direction of the board of road commissioners described in section 2 of an act entitled "An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the district of Alaska, and for other purposes," approved January 27, 1905, and to be expended conformably to the provisions of said act, $350,000, to remain available until close of fiscal year 1911.

Mr. Robert B. Macon, of Arkansas, presented a point of order.

The Chairman[2] ruled:

It seems entirely clear that the appropriation contained in the present paragraph is not authorized by the statute to which reference has been made. In 1905 a law was passed which provided that moneys derived from liquor licenses and other purposes stated in Alaska might be used for certain ends. After stating the scheme and referring to the construction of roads, it further goes on:

"The cost and expense of laying out, constructing, and repairing such roads and trails shall be paid by the Secretary of the Treasury out of the road and trail portion of the said Alaska fund."

It seems to the Chair perfectly clear that an act which authorized the construction of roads and trails, to be paid for out of a certain specified fund known as the "Alaska fund," to be derived from certain specific sources of revenue, is not the authority of law which is required to authorize an appropriation to be made in a general appropriation bill to be paid out of the Treasury at large; and so it seems to the Chair that this appropriation is not authorized by statute.

It is then argued that even if not authorized originally by statute, it may be regarded under the rule of the House as the continuation of a work already in progress, and for that reason in order upon this bill. The Chair is familiar with that rule. If the construction of a building, for instance, for a public purpose has been commenced, even though originally subject to the point of order, yet the work having commenced and there being no limit of cost, further appropriations may be made.

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[1] Second session Sixtieth Congress, Record, p. 1698.

[2] James B. Perkins, of New York, Chairman.

It is entirely possible that if a road or highway for military purposes, or even for other purposes, is once commenced, with no limitation on the appropriation, although originally subject to the point of order, yet the work having been undertaken it would be in order to make an appropriation for a continuation of the work. But the present section is very different, because it authorizes the expenditure of money as follows:

"For the construction and maintenance of military and post roads, bridges, and trails in the district of Alaska."

In other words, the argument is, if a road had been begun in one State or Territory, this would authorize an appropriation to be made for any other roads or bridges. Two bridges might have been begun in the district of Alaska, Would this authorize this appropriation to be used for the construction of any number of additional roads and bridges in different parts of the district that it might be deemed expedient to build? It does not seem to the Chair that under the rule which authorizes the completion of a work begun, the fact that one road has been commenced in the district would authorize Congress to proceed and extend throughout the entire district any number of roads, and the construction of any number of bridges which the board may not even have planned yet. Therefore the Chair feels constrained to sustain the point of order.

1341. The improvement of a private road, though long in use and on a Government reservation, is not a work in progress within the terms of the rule.

The construction of a bridge on an Indian reservation was held not to be a work in progress justifying an appropriation on an appropriation bill.

On February 21, 1910,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read the following paragraph:

For the construction of a bridge and the necessary approaches thereto across the Little Colorado River at or near Tanners Crossing on the Navajo Indian Reservation in Coconino County, Territory of Arizona, $50,000, or so much thereof as may be necessary.

Mr. James R. Mann, of Illinois, made the point of order that the project was not such a work in progress as to authorize an appropriation.

The Chairman[2] held:

This road seems to have been built by private capital, and of late years kept in order by the county. It being in the nature of a county rather than a government road, it hardly comes within the exception to the rule, which exception permits appropriations in continuation of a public work in progress. Upon this state of facts, and no authority of law for the appropriation having been shown, the Chair must sustain the point of order.

1342. Dicta to the effect that a treaty when duly ratified by the contracting parties thereto becomes existing law to the extent of authorizing an appropriation on an appropriation bill.

Provision for "continuing" conversion of naval cruisers made in a previous appropriation bill was accepted as evidence that the work was actually in progress.

On March 21, 1924,[3] the Navy Department appropriation bill was under, consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

The Secretary of the Navy may use the unexpended balances on the date of the approval of this act under appropriations heretofore made on account of "Increase of the Navy," together

[1] Second session Sixty-first Congress, Record, p. 2188.

[2] Marlin E. Olmsted, of Pennsylvania, Chairman.

[3] First session Sixty-eighth Congress, Record, p. 4671.

with the sum of $7,500,000, which is hereby appropriated for the prosecution of work on vessels under construction on such date, the construction of which may be proceeded, with under the terms of the treaty providing for the limitation of naval armament; for continuing the conversion of two battle cruisers into aircraft carriers, including their complete equipment of aircraft and aircraft accessories, in accordance with the terms of such treaty; for the procurement of gyro compass equipments, and for the installation of fire-control instruments on destroyers not already supplied; and for the completion of armor, armament, ammunition, and torpedoes for the supply and complement of vessels which may be proceeded with as hereinbefore mentioned:

Mr. Thomas L. Blanton, of Texas, made the point of order that there was no authority of law for the expenditure.

Mr. Burton L. French, of Idaho, explained:

The gentleman will recall that the limitation of armament treaty carries provisions that are law, under which our committee would be bound to function in considering the conversion of the two battle cruisers into aircraft carriers. I think the gentleman will find that the treaty has the same binding effect as substantive law. The gentleman will recall that the treaty itself provides that two of these cruisers may be converted into aircraft carriers.

The Chairman [1] ruled:

If there has been a treaty which has been duly ratified by the countries entering into it, our country being one of them, and it contains that provision, it has the force of law. The Chair thinks there is perhaps a short way out of this without referring to it. The naval act of last year contained the same item:

"For continuing the conversion of two battle cruisers into aircraft carriers, including their complete equipment of aircraft and aircraft accessories."

Therefore it is a work already in progress. The Chair can not find in this paragraph any authorization for the appropriation for any new work. The opening language is—"which is hereby appropriated for the prosecution of work on vessels under construction."

Then there is the item for continuing the conversion of two battle cruisers, which the Chair has already said is a work in progress. It further says in the law of last year:

"In accordance with the terms of such treaty."

That is a part of the naval appropriation act of last year. There is no question in the Chair's mind that this is proper. The point of order is overruled.

1343. Publication of a monthly periodical is not considered a continuation of a public work within the meaning of the rule.

A provision for compliance with a statutory requirement but including limitations upon Executive discretion was held to involve legislation and not to be in order on an appropriation bill.

On February 14, 1908,[2] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

For a monthly Pilot Chart of the North Pacific Ocean, showing graphically the matters of value and interest to the maritime community of the Pacific coast, and particularly the directions and forces of the winds to be expected during the month succeeding the date of issue; the set and strength of the currents; the feeding grounds of whales and seals; the regions of storm, fog, and ice; the positions of derelicts and floating obstructions to navigation; and the best routes to be followed by steam and by sail; including the expenses of communicating and circulating information; lithographing and engraving; the purchase of materials for and printing and mailing the chart, $2,000.

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[1] William J. Graham, of Illinois, Chairman.

[2] First session Sixtieth Congress, Record, p. 2050.

Mr. James R. Mann, of Illinois, having raised a question of order, Mr. Frederick H. Gillett, of Massachusetts, said:

Mr. Chairman, this is an appropriation which has been in the bill year after year. It is a regular Government publication, a work now in progress, and it seems to me that the continuation of it is proper upon an appropriation bill. I suppose the gentleman will not deny that it is a work which we have had year by year, which is now being published, and that this is a mere continuation of what is now going on. I call the attention of the Chair to section 432 of the Revised Statutes, as authorizing the publication. Section 432 is as follows:

"SEC. 432. The Secretary of the Navy is authorized to cause to be prepared, at the Hydrographic Office attached to the Bureau of Navigation in the Navy Department, maps, charts, and nautical books relating to and required in navigation, and to publish and furnish them to navigators at the cost of printing and paper, and to purchase the plates and copyrights of such existing maps, charts, navigators, sailing directions and instructions as he may consider necessary, and when he may deem it expedient to do so, and under such regulations and instructions as he may prescribe."

Mr. Mann argued:

Permit me to call your attention to the fact that this entirely changes the discretion of the Secretary of the Navy in that regard, and requires him to publish a chart giving particularly the directions and forces of the winds to be expected during the month succeeding the date of issue, the set and strength of the currents, the regions of storm, fog, and ice, which is not provided for in the law, but entirely overrules his discretion, and hence is a change of existing law.

The Chairman [1] held:

The Chair will state frankly that he hardly thinks the appropriation is authorized on the ground that it is a continuing work in progress. The pending paragraph appropriates money for the publication of a monthly pilot chart of the North Pacific Ocean, which, if published, is to include certain things specified in the paragraph, thereby seeming to the Chair to limit the discretion which is vested in the executive officer by section 432, to which the attention of the Chair is called. The Chair thinks it would be possible to appropriate money for publishing a monthly pilot chart of the North Pacific Ocean, but in making the appropriation the directions set forth can not be embodied. The Chair therefore sustains the point of order.

1344. An additional appropriation to enable a legally authorized commission to complete reclassification of salaries was held to be in order on an appropriation bill.

On June 21, 1919,[2] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

Joint Commission on Reclassification of Salaries: For an additional amount to enable the commission to complete the reclassification of salaries in accordance with the requirements of section 9 of the legislative, executive, and judicial appropriation act for the fiscal year 1920, $25,000.

Mr. Joseph Walsh, of Massachusetts, made a point of order on the paragraph and Mr. James W. Good, of Iowa, submitted that it was in continuation of a work in progress.

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[1] George P. Lawrence, of Massachusetts, Chairman.

[2] First session Sixty-sixth Congress, Record, p. 1529.

The Chairman [1] ruled:

The Chair thinks that section 9 of the legislative, executive, and judicial appropriation bill, providing for a joint commission on reclassification of salaries, limiting the life of the commission to the second Monday in January, 1920, and fixing their compensation at $625 a month and appropriating $25,000 for the expenses of the commission incurred in the work which they are authorized and directed by the act to perform, justifies the exercise of power by the House in making further appropriations to pay whatever expenses may be incurred from time to time in the performance of the work for which this commission was authorized, and therefore the Chair overrules the point of order.

1345. Continuation of a scientific investigation by a department of the Government was held not to constitute a work in progress and to be unauthorized by law.

On February 11, 1920,[2] the Agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

For the investigation and demonstration within the United States to determine the best method of obtaining potash on a commercial scale, $192,900: *Provided,* That the product obtained from such experimentation may be sold at a price to be determined by the Secretary of Agriculture, and the amount obtained from the sale thereof shall be covered into the Treasury as miscellaneous receipts.

Mr. Eugene Black, of Texas, made the point of order under section 2 of Rule XXI.

The Chairman [3] said:

The gentleman from Texas makes the point of order upon the paragraph beginning in line 16 and ending in line 22, as follows:

"For investigation and demonstration within the United States to determine the best method of obtaining potash on a commercial scale, $192,900."

The Chair finds that in the agricultural appropriation act approved August 11, 1916, chapter 313, of Thirty-ninth Statutes, page 465, an item similar in form was carried, with the additional language:

"Including the establishment and equipment of such plant or plants as may be necessary therefor."

The Chair does not think that the continuation of an investigation such as this, a scientific investigation by a department, constitutes such a work in progress as may be denominated a continuation of a public work. In order that the rule should apply something more tangible than an investigation in a plant or establishment should be shown in the authorization under which the appropriation is sought.

The gentleman from Texas bases his claim that this is not a proper matter for investigation and demonstration within the organic law under which the Department of Agriculture operates. Something has been said in discussing the point of order as to the purpose of the authorization of this investigation and demonstration as carried in the language of the item. But upon an inspection of the language appropriating this $192,900 for determining the best method of obtaining potash on a commercial scale and authorizing its sale at a price to be determined by the Secretary of Agriculture, the Chair is inclined to believe it goes somewhat beyond the scope of the organic law and thinks it is not such work as may properly be said to be authorized by the organic law, and therefore sustains the point of order.

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[1] Martin B. Madden, of Illinois, Chairman.

[2] Second session Sixty-sixth Congress, Record, p. 2787.

[3] Joseph Walsh, of Massachusetts, Chairman.

1346. An appropriation to continue work authorized by current law beyond the time of that authorization was ruled out of order on an appropriation bill.

Where a current law provided an appropriation for furnishing during the current fiscal year service records of naval personnel, an appropriation for continuance of that work beyond the year was held not to be in continuation of a public work.

On February 11, 1921,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

The Bureau of Navigation, Navy Department, is hereby directed to furnish to the proper officers in the several States, Territories, insular possessions, and the District of Columbia, on or before October 31, 1921, statements of the services of all persons from those several places who served in the Navy during the War with Germany, and for that purpose an additional sum not to exceed $50,000 is hereby appropriated for obtaining the necessary material and the employment of the necessary clerical force.

Mr. Fred. A. Britten, of IIinois, made the point of order that it was legislation on an appropriation bill.

Mr. Patrick R. Kelley, of Michigan, contended that it was in continuation of a public work in progress.

The point of order having been sustained by the Chairman,[2] Mr. Kelley offered the paragraph as an amendment in this form:

To enable the Bureau of Navigation, Navy Department, to complete the work of furnishing the proper officers in the several States, Territories, insular possessions, and the District of Columbia, on or before October 31, 1921, statements of the services of all persons from those several places who served in the Navy during the war with Germany, and the employment of the necessary clerical force, $50,000.

Mr. Britten again presented a point of order, which was also sustained by the Chairman.

1347. Appropriations for alteration and repair of battleships and other naval craft, including changes in armament, are in order on appropriation bills as in continuation of public work in progress.

On February 26, 1923,[3] the deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and this paragraph had been reached:

For making such changes as may be permissible under the terms of the treaty providing for the limitation of naval armament, concluded on February 6, 1922, published in Senate Document No. 126 of the Sixty-seventh Congress, second session, in the turret guns of the battleships *Florida, Utah, Arkansas, Wyoming, Pennsylvania, Arizona, Oklahoma, Nevada, New York, Texas, Mississippi, Idaho,* and *New Mexico,* as will increase the range of the turret guns of such battleships to remain available until December 31, 1924, $6,500,000.

Mr. Thomas L. Blanton, of Texas, raised a question of order on the paragraph.

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[1] Third session Sixty-sixth Congress, Record, p. 3022.

[2] Joseph Walsh, of Massachusetts, Chairman.

[3] Fourth session Sixty-seventh Congress, Record, p. 4695.

The Chairman [1] said:

Reference has been made in this discussion to the treaty negotiated at the Conference on the Limitation of Armament held in Washington during the winter of 1921–22, and while the treaty is not the all-prevailing consideration in the determination of the point of order it must be said that there is and ought to be a moral obligation upon the part of the Government to conform to the spirit of the treaty, even though it has not been ratified by all of the parties signatory thereto. Irrespective of this, the paragraph in question contains the words:

"For making such changes as may be permissible under the terms of the treaty."

In view of this language, the Chair thinks the question raised relative to the treaty can very effectively be disposed of without any further consideration, because it is not possible to put the money to any purpose other than a purpose that comes within the purview of the treaty.

The proposition relative to the guns on these ships in question is one of the general type of mounting and not of the range, according to the provisions of the treaty, and so the Chair is of opinion that that feature of the point of order is not worthy of further consideration.

The provision relative to the status of these ships that are specifically enumerated at the bottom of page 32 and at the top of page 33 is, however, to be determined by the Chair's ruling. It is quite apparent, in view of a well-established line of decisions and precedents, that alterations and repairs may be made to battleships and other naval craft when they come within the purview of the rule authorizing Congress, through the Appropriations Committee, without specific additional legislative authority, to provide for funds for the continuation of a public work in progress. In the Fifty-ninth Congress a naval appropriation bill provided as follows:

"Provided further, That the Secretary of the Navy shall hereafter report to Congress at the commencement of each regular session the number of vessels and their names upon which any repairs or changes are proposed, and which in any case amount to more than $200,000."

This sum was subsequently changed to $300,000 by another naval appropriation bill, but there is nothing in this language that compels the Secretary of the Navy to seek additional specific legislative authority for this situation. He must merely report to Congress, so that Congress may consider the amounts. Irrespective of that, the Secretary of the Navy, in view of a subsequent law, a recent law, does not make his report to Congress but makes it to the Bureau of the Budget, which in turn reports to Congress. This item has been submitted to Congress in the manner provided by law. It is quite clear to the Chair that all of this money proposed here in line 4 of page 33 is for the continuation of an existing public work, and therefore comes within the purview of the rule. The point of order is overruled.

1348. Overruling a former decision,[2] the construction of a submarine cable in extension of one already laid was held to be in continuation of a public work.

On February 2, 1921,[3] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read:

For defraying the cost of such extensions, betterments, operation, and maintenance of the Washington-Alaska Military Cable and Telegraph System as may be approved by the Secretary of War, to be available until the close of the fiscal year 1923, from the receipts of the Washington-Alaska Military Cable and Telegraph System which have been covered into the Treasury of the United States, the extent of such extensions and betterments and the cost thereof to be reported to Congress by the Secretary of War, $140,000.

Mr. Thomas L. Blanton, of Texas, made the point of order that it provided for a new project and was legislation.

The Chairman [4] overruled the point of order.

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[1] Clifton N. McArthur, of Oregon, Chairman.

[2] Hinds' Precedents. see. 3716.

[3] Third session Sixty-sixth Congress, Record, p. 2469.

[4] John Q. Tilson, of Connecticut, Chairman.

1349. An appropriation for care and operation of Government schools was held in order as an appropriation for continuance of a public work in progress.

On March 20, 1924,[1] the Navy Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Thomas S. Butler, of Pennsylvania, offered this amendment:

And for care and operation of schools built at ordnance stations pursuant to authority contained in the act entitled "An act to authorize the President to provide housing facilities for war needs," approved May 16, 1918, $9,025,000.

Mr. James T. Begg, of Ohio, made the point of order against the amendment.

The Chairman[2] ruled:

Rule XXI, section 2, provides 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, unless in continuation of appropriations for such public works and objects as are already in progress."

Two questions of fact arise: First, whether this appropriation has been authorized by law, or, second, if it has not been authorized by law, whether it is a public work already in progress.

The fact seems to be that these buildings were constructed under the housing act. Later, under the act of March 1, 1922, section 5, authority is given for caring for, renting, and operating such property as remains undisposed of under that act. Still later, by Executive order, this property was transferred from the Housing Corporation to the Navy Department. It seems to have been provided for by law, and it is a public work in progress. The amendment seems to be in order under that rule. The Chair therefore overrules the point of order.

1350. A proposition to purchase a separate and detached lot of land for a proving ground was held not to be in continuation of a public work.

On September 17, 1917,[3] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

Proving ground: For increasing facilities for the proof and test of ordnance material, including necessary buildings, equipment, and land, $3,000,000.

Mr. Thomas U. Sisson, of Mississippi, raised the point of order that the proposed expenditure was not authorized by law.

The Chairman[4] decided:

Clause 2 of rule 21 provides 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, unless in continuation of appropriations for such public works and objects as are already in progress."

The Chair, of course, understands the contention is that this is in continuation of a project already authorized by law. The Chair desires to call attention to section 3736 of the Revised Statutes, which provides that—

"No land shall be purchased on account of the United States, except under a law authorizing such purchase."

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[1] First session Sixty-eighth Congress, Record, p. 4598.

[2] Henry W. Temple, of Pennsylvania, Chairman.

[3] First session Sixty-fifth Congress, Record, p. 7226.

[4] Charles R. Crisp, of Georgia, Chairman.

The Revised Statutes provide that no land shall be purchased on account of the United States except under a law authorizing such purchase. The purchase of land for a proving ground is not authorized by existing law, and it is clearly new legislation. The Chair happens to have at hand a decision which seems to be absolutely on all-fours with this case, which negatives, the Chair thinks, the proposition that this item is in continuation of a project already authorized. The Chair refers to Hinds' Precedents, volume 4, section 3776. The Chair thinks that is identical with the case at bar and the Chair is constrained to sustain the point of order.

1351. Appropriations for new vessels and otherwise unauthorized craft of the Navy, formerly[1] held to be in order as a continuance of a public work, are no longer admissible on an appropriation bill.

On February 11, 1921,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When the paragraph providing for aviation in the Navy was read Mr. Frederick C. Hicks, of New York, from the Committee on Naval Affairs, by direction of that committee, proposed this amendment:

For necessary heavier-than-air craft, $4,906,500; for necessary lighter-than-air craft, $670,000; for necessary equipment for such aircraft, $500,000; for new construction, buildings, and improvements at air stations as follows: Cape May, $25,000; Coco Solo, $402,000; Hampton Roads, $78,000; Lakehurst, $360,000; Pearl Harbor, $210,000; Pensacola, $100,000; San Diego, $164,000; Pacific Coast Rigid Station, $1,450,000.

Mr. Frank W. Mondell, of Wyoming, having reserved a point of order on the amendment, Mr. Hicks referred to the well-established principle holding an appropriation for a new vessel of the Navy in order as a continuation of a public work.

Mr. Thomas L. Blanton, of Texas, insisted on the point of order.

The Chairman[3] ruled:

The gentleman from New York has offered an amendment to provide for necessary heavier-than-air craft and necessary lighter-than-air craft, necessary equipment, and so forth, and new construction work, to which the gentleman from Texas makes the point of order that it is not in order upon an appropriation bill. The Chair believes that because of the adoption of a new rule placing the appropriations for the Naval Establishment in the Appropriations Committee and changing somewhat the jurisdiction of the Committee on Naval Affairs, it would be well to direct the attention of the committee to paragraph 13 of Rule XI as amended, which paragraph is a part of the rule, the first part of which reads as follows:

"All proposed legislation shall be referred to the committees named in the preceding rule as follows, viz: Subjects relating to the Naval Establishment, including increase or reduction of commissioned officers and enlisted men and their pay and allowances, and the increase of ships or vessels of all classes of the Navy, to the Committee on Naval Affairs."

The gentleman from New York contends, if the Chair understood him correctly, that he offers this amendment with the approval and by the direction of the Committee on Naval Affairs, of which the gentleman from New York is a member. And the Chair is, of course, willing to accept the statement of the gentleman from New York that is correct, and assumes that the committee may have taken action upon the proposed amendment authorizing the gentleman from New York to offer it to this particular bill, but this authority adds nothing to the question.

Heretofore, under the rules of the House as interpreted by the various presiding officers, the addition of a new ship might be provided for in an appropriation bill which was, under the former rules, reported by the Committee on Naval Affairs. The Chair believes that under the language of

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[1] Hinds' Precedents, sec. 3723.

[2] Third session Sixty-sixth Congress, Record, p. 3018.

[3] Joseph Walsh, of Massachusetts, Chairman.

the new rule, which seems to be plain and specific, that the increase of ships and vessels of all classes of the Navy is a matter now solely within the jurisdiction of the Committee on Naval Affairs, and that if it is desired to increase the number of ships or vessels of any particular class within the Naval Establishment hereafter, the requirements of that rule will make it necessary that there be specific or general legislation authorizing it.

The Chair is not aware of any such legislation nor has any been called to his attention, which would permit the increase provided for in the amendment. Therefore, the Chair sustains the point of order.

The Chair would state that under the former rules, as interpreted, the addition of an additional ship in an appropriation bill was held to be in order as the continuation of a public work. The rules now require that the increase of ships and vessels of the Navy shall go to the Committee on Naval Affairs.

1352. An appropriation for equipment of a naval dry dock already in existence was held to be in continuation of a public work.

On February 12, 1921,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read a paragraph making appropriation for the navy yard at Puget Sound, Wash., including the following:

Keel blocks for Dry Dock No. 2, $6,500.

Mr. Fred E. Britten, of Illinois, made a point of order that the expenditure was legislation and said:

Keel blocks are a mechanical equipment that go into a yard, and the reason for this $6,500 for keel blocks is because of the heavier vessels that go in there. It is brand new material in the shape of new equipment, and it is legislation on an appropriation bill.

The Chairman[2] decided:

It seems to the Chair that the gentleman's statement really indicates that this is for a dock already in existence, and to facilitate the docking of different types of vessels than those which have heretofore been berthed there, and that the appropriation is authorized, under the gentleman's own statement. The point of order is overruled.

1353. An appropriation for continuing development of a submarine base was held to be in continuation of a work already in progress.

On March 21, 1924,[3] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. Willis C. Hawley, of Oregon, offered the following amendment:

For continuance of the development of a submarine and destroyer base, Columbia River, Oreg., $350,000.

Mr. Burton L. French, of Idaho, made the point of order that there was no law authorizing the proposed expenditure.

The Chairman[4] ruled:

The gentleman from Oregon offers an amendment, which reads as follows:

"For continuance of the development of a submarine and destroyer base, Columbia River, Oreg., $350,000."

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[1] Third session Sixty-sixth Congress, Record, p. 3089.

[2] Joseph Walsh, of Massachusetts, Chairman.

[3] First session Sixty-eighth Congress, Record, p. 4656.

[4] William J. Graham, of Illinois, Chairman.

The gentleman from Oregon submits in support of his contention that it is a proper amendment; that it is an appropriation in continuance of an appropriation for a public work already in progress.

The naval act passed in 1920 contains this provision:

"Submarine and destroyer base, Columbia River: Toward the development of a submarine and destroyer base, and the Secretary of the Navy is hereby authorized to accept from the city of Astoria, Oreg., free from encumbrances and conditions and without cost to the United States Government, a certain tract of land at Tongue Point, Columbia River, for use as a site for a naval submarine and destroyer base, and containing 115 acres, more or less, of hard land and 256 acres of submerged land, $250,000."

There is in this particular section which the Chair has read no limit as to the cost of that improvement. Congress did not attempt in this legislation to limit the cost of that improvement, but simply appropriated $250,000 to start the project, namely, the development of a submarine and destroyer base by acquiring certain land. It says "accept from the city of Astoria, Oreg., free from any encumbrance and conditions without cost a tract of land at Tongue Point." Now, this amendment is in order in the judgment of the Chair. Just what the appropriation can be used for is a matter of administration, but the Chair is of opinion that, judging by the language of the original appropriating act, this present appropriation can only be used to carry out the purposes made in the original appropriation and the only work that can be conducted under this appropriation would be the work authorized by the section which the Chair has just read. The question as to whether a new building might be built or some other construction does not arise. It is sufficient to say that the amendment is framed in the language of the original statute and is properly a continuation of work in progress. The Chair overrules the point of order.

1354. The construction of a new building at a military post was held not to be in continuation of a public work.

On February 1, 1909,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and this paragraph had been reached:

Buildings on Corregidor Island, Philippine Islands: For the construction on Corregidor Island, Philippine Islands, of storehouses for the Quartermaster's, Subsistence, Ordnance, and Medical departments of the army, $250,000.

Mr. Robert B. Macon, of Arkansas, raised a point of order on the paragraph. The Chairman[2] said:

The Chair is ready to rule, and in doing so he merely sustains the opinion of his many predecessors in the chair.

The Chair has nothing to do with the propriety or wisdom of this appropriation; but it has been held that the construction of barracks in a navy yard was not a continuation of a public work; that an appropriation for a naval prison was not a continuation of a public work; that an appropriation for officers' quarters and an appropriation for a hospital in a navy yard was not a continuation of a public work. At the very last session of this Congress, in February, 1908, one of the most distinguished parliamentarians of this body, who is soon to become Vice President of the United States, sustained a similar point of order against an appropriation for the completion of a building at the Engineers' School at Washington, stating that the tendency of the decisions on this point was strictly to the enforcement of the rule, departing somewhat from what he regarded as perhaps a certain laxity in former decisions.

In view of the whole tenor of the recent decisions, the Chair feels that he is bound by the opinions of his predecessors, and must sustain the point of order.

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[1] Second session Sixtieth Congress, Record, p. 1702.

[2] James B. Perkins, of New York, Chairman.

1355. While a proposition to enlarge an existing public building is in order as continuation of a public work, an appropriation for the "extension" of a building is not in order if it is in fact a proposition for a new building.

On April 7, 1910,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

For the extension of the marine barracks, naval station, Olongapo, Philippine Islands, $55,000.

Mr. John J. Fitzgerald, of New York, in making a point of order, said:

I wish to call the attention of the Chair to the distinction that has been made as to barracks. To enlarge an existing building has been held to be in order, but to authorize a new building is not. I imagine some very careful and well-informed gentlemen in the department devised the term "extension of marine barracks" in the hope that he might avoid the rules of the House and obtain what might otherwise not be obtainable under the rules.

If this be to enlarge a building, it should be so stated; if it be not to enlarge a building, it is not in order. The committee should know what it is proposed to do with the money they are asking the House to appropriate. If they can not tell what purpose this money is to be used for, it is very difficult for anybody else to determine. The term "extension of marine barracks" is not used with the same meaning as the expression "to enlarge a building that already is occupied as barracks."

The Chairman[2] ruled:

On the naval appropriation bill last year an item was carried, "Barracks quarters, Marine Corps: To complete the marine barracks, Philadelphia, Pa." To that a point of order was made and the Chair sustained the point of order. The Chairman at that time was the present occupant of the chair.

An item was then offered to extend the marine barracks by the addition of a wing at the navy yard at Philadelphia, to which a point of order was made. The present occupant of the chair, then the occupant of the chair, overruled the point of order on the ground that to extend a building already constructed was in order, there being no limit of cost upon the original building, but that to provide for a new building in an appropriation bill not authorized by law was subject to a point of order. And as the Chair is informed that this is not for an extension of an existing building, but is for the construction of a new building as an extension of the barracks, the Chair is required to sustain the point of order.

1356. Provision for the construction of a new boathouse at the Naval Academy was held not to be in order in an appropriation bill as a continuation of a public work.

On March 24, 1928,[3] during consideration of the naval appropriation bill, in the Committee of the Whole House on the state of the Union, this amendment was offered by Mr. Stephen W. Gambrill, of Maryland:

Naval Academy, Annapolis, Md.: Construction of boathouse, limit of cost, $250,000.

Mr. James T. Begg, of Ohio, raised a question of order as to authorization.

After debate on the contention that the appropriation was admissible because in continuation of a public work, the Chairman[4] ruled:

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[1] Second session Sixty-first Congress, Record, p. 4392.

[2] James R. Mann, of Illinois, Chairman.

[3] First session Seventieth Congress, Record, p. 5331.

[4] Carl R. Chindblom, of Illinois, Chairman.

The Chair has given consideration to the question and finds that the general law for the establishment of the Naval Academy is more destitute of detailed provisions with reference to legislation and appropriations for the academy than are most laws concerning establishments of the Government. Under well-established precedents the construction of a new building, when not specifically authorized by prior legislation, has been held not to be a continuation of a public work and has been held subject to a point of order when appearing in or offered as an amendment to an appropriation bill.

On February 1, 1909,[1] during consideration of the Army appropriation bill, the Chairman of the Committee of the Whole held the construction of storehouses in the Philippine Islands, for the use of various departments in the Army, out of order. The Chair then said:

"The Chair has nothing to do with the propriety or wisdom of this appropriation, but it has been held that the construction of barracks in a navy yard was not a continuation of a public work; that an appropriation for a naval prison was not a continuation of a public work; that an appropriation for officers' quarters and an appropriation for a hospital in a navy yard was not a continuation of a public work."

On February 12, 1921,[2] during consideration of the naval appropriation bill, the Chairman held an appropriation for a new storehouse for ordnance at the navy yard at Puget Sound not in order as in continuation of a public work.

The Chair is therefore constrained to sustain the point of order.

1367. Propositions for a new "storehouse" and for "additional storage facilities" were respectively held not to be in order on an appropriation bill as in continuation of a public work.

On February 12, 1921,[3] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The paragraph providing for the navy yard at Puget Sound having been reached, Mr. Fred A. Britten, of Illinois, made a point of order against a provision in the paragraph for a "storehouse of ordnance."

The Chairman[4] held:

The gentleman from Illinois makes the point of order against the language, "storehouse for ordnance, $95,000." The Chair is of the opinion that the question of a new building at navy yards has up to the present time been considered somewhat differently from other activities in navy yards. Section 3758 of Hinds' Precedents holds that an appropriation for quarters for the commandant at the navy yard was subject to a point of order, and furthermore that other new buildings provided for in appropriation bills for which there has been no specific authority have been held to be not authorized on general appropriation bills for the Naval Establishment. So, upon the authority of section 3758 of Hinds' Precedents and decisions following which have been made since that time, the Chair sustains the point of order.

Thereupon Mr. Patrick H. Kelley, of Michigan, offered the following amendment:

Additional storage facilities, $95,000.

A point of order against the amendment made by Mr. Britten was overruled by the Chairman, but on the following Monday, when the bill was again under consideration, the Chairman said:

If the committee will indulge the Chair for a moment, the Chair desires to state that on Saturday he made a ruling holding in order certain amendments providing for additional storage

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[1] See. 1354 of this work.

[2] Sec. 1357, ibid.

[3] Third session Sixty-sixth Congress, Record, p. 3090.

[4] Joseph Walsh, of Massachusetts, Chairman.

facilities and additional facilities. The Chair feels, upon further reflection, he erroneously held those amendments in order, and he believes that the ruling which he made should not be construed to overrule the precedents which had previously been set, and he regrets the decision has been made and feels it ought not to be held as a precedent overruling previous precedents.

1358. While appropriations for erection of new school buildings in the District of Columbia are not in order on appropriation bills, propositions for continuing the erection of additions to existing school buildings are admitted as in continuation of public work in progress.

On January 6, 1923,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read the following:

Continuing the construction of an addition to the Armstrong Manual Training School $200,000.

A point of order reserved on the paragraph by Mr. Thomas L. Blanton, of Texas, was overruled by the Chairman.[2]

The Clerk then read:

For beginning the erection of a 16-room building, including a combination assembly hall and gymnasium, to replace the old John F. Cook School, $100,000, and the commissioners am hereby authorized to enter into contract or contracts for such building at a cost not to exceed $250,000.

A point of order raised by Mr. Blanton, that the paragraph was unauthorized legislation was sustained by the Chairman.

1359. An appropriation for installation of a refrigerating plant at the District of Columbia morgue was held to be in order as in continuance of a work in progress.

On May 1, 1924,[3] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A point of order raised by Mr. Thomas L. Blanton, of Texas, on a paragraph of the bill providing an appropriation for the installation of a refrigerating plant at the morgue was overruled by the Chairman[4] on the ground that it was in continuation of a public work in progress.

1360. The purchase of adjoining land for a work already established was held to be in continuation of a public work.

An appropriation for purchase of additional adjacent land to be added to a target range was held to be in order on an appropriation bill.

On February 1, 1909,[5] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Robert B. Macon, of Arkansas, raised a point of order on the following paragraph:

Shooting galleries and ranges: For shelter, shooting galleries, ranges for small-arms target practice, repairs, and expenses incident thereto, such ranges and galleries to be open, as far as practicable, to the national guard and organized rifle clubs under regulations to be prescribed by

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[1] Fourth session Sixty-seventh Congress, Record, p. 1382.

[2] Frederick C. Hicks, of New York, Chairman.

[3] First session Sixty-eighth Congress, Record, p. 7658.

[4] William J. Graham, of Illinois, Chairman.

[5] Second session Sixtieth Congress, Record, p. 1700.

the Secretary of War, $155,576.50: *Provided,* That $41,000 of this amount may be used for the acquisition of approximately 320 acres of land adjacent to Fort Leavenworth, Kans., as an addition to the target range, provided, that the funds herein provided, or as much thereof as may be necessary, shall be immediately available.

The Chairman [1] held:

In reference to the point of order that is raised, the Chair is of opinion that a certain portion of the paragraph is subject to a point of order, but only a certain portion. The first portion provides that $41,000 of the amount may be used for the acquisition of 320 acres of land. The Chair understands that the target range has been acquired by provision of law, and there is no limitation upon the appropriation. In view of that, the Chair thinks that the acquisition of 320 acres adjacent thereto and forming a part of it, under the rules of the House and its procedure, is not subject to a point of order. The Chair will, however, state that the second proviso is subject to the point of order if the point of order is insisted upon. The Chair refers to that portion of the section which provides that the funds herein provided, or so much thereof as may be necessary, shall be immediately available. Under that provision this appropriation should go on the deficiency appropriation bill; and therefore, if the point of order is insisted upon against the whole paragraph, it would be necessary to strike it out because the second portion is obnoxious to the rule.

1361. Purchase of land adjoining a work already established was held to be in continuation of a public work.

An appropriation for acquisition of ground adjacent to a school in the District of Columbia was held to be in order as a continuation of a public work.

On January 28, 1911,[2] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was reached:

For the purchase of ground adjacent to the Corcoran School for the extension of said school approximately 7,200 square feet, $9,000.

Mr. Ben Johnson, of Kentucky, made the point of order that there was no law authorizing the purchase.

The Chairman [3] ruled:

Can the gentleman from Kentucky cite the Chair to any law limiting the cost of this particular school building and its grounds? The paragraph to which the point of order is made is—

"for the purchase of ground adjacent to the Corcoran School for the extension of said school, approximately 7,200 square feet, $9,000."

Unless there has been a limit fixed by law upon the total cost of this building and its grounds the purchase of additional land should be held to be a continuation of a public work.

The Chair finds this principle laid down in the Manual under Rule XXI, on page 414, as follows:

"The purchase of adjoining land for a work already established has been admitted under this principle."

Following the precedents, the Chair overrules the point of order.

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[1] James B. Perkins, of New York, Chairman.

[2] Third session Sixty-first Congress, Record, p. 1598.

[3] John Q. Tilson, of Connecticut, Chairman.

1362. The purchase of adjoining land for a work already established was held to be in continuation of a public work.

An appropriation for purchase of land adjoining a rifle range was held to be in continuation of a public work in progress.

On April 16, 1920,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and a point of order raised on a previous day by Mr. Martin B. Madden, of Illinois, was pending against the following amendment proposed by Mr. Carlos Bee, of Texas:

Provided, That there is hereby appropriated out of any money in the Treasury not otherwise appropriated, the sum of $88,880 for the acquisition of land as an addition to the Leon Springs military reservation in Texas, heretofore authorized, and now in use as a target range for Camp Travis, Tex.

The Chairman[2] said:

On yesterday an amendment was offered by the gentleman from Texas to which a point of order was made by the gentleman from Illinois [Mr. Madden]. The question depended upon the facts of the case, in the judgment of the Chair. It was impossible to know at that time just what the facts were. The Chair has had an investigation made and is now ready to rule upon the point of order.

The paragraph of the bill under consideration to which this amendment was offered is as follows:

"For shelter, grounds, shooting galleries, ranges for small-arms target practice, machine gun practice, field-artillery practice, repairs, and expenses incident thereto, including flour for paste for marking targets, hire of employees, such ranges and galleries to be open as far as practicable to the National Guard and organized rifle clubs under regulations to be prescribed by the Secretary of War, $50,000."

There is no question but what the amendment offered is germane to the paragraph. The amendment provides for an appropriation of $88,880 for the acquisition of land as an addition to the Leon Springs Military Reservation in Texas, heretofore authorized and now in use as a target range at Camp Travis in Texas.

Whether the point of order directed against the amendment should be sustained or overruled depends upon the facts in the case. If the purchase proposes the addition of a separate and distinct tract of land not adjoining and appurtenant to the Leon Springs Reservation, the point of order should be sustained; if the addition is adjacent to the Leon Springs Reservation it is in order as a continuation of a public work. There is no method of enlarging any public work that is situated as it must be upon lands except by amendment to existing law. It has been held that any continuation of an existing work is not subject to that point of order. This has been extended to include lands which are adjacent to that which has already been authorized by an act of Congress. The Chair has been informed in this case by the War Department that the land appropriated for in the amendment is not only adjacent to but is in fact within the present boundaries of what has been laid out and denominated the Leon Springs Reservation. Under those conditions the point of order must be, and is, overruled.

1363. While an appropriation for the purchase of a new site for a school building in the District of Columbia is not in order on an appropriation bill, a proposition for the purchase of land adjacent to school property was admitted as in continuation of a public work in progress.

Discussion as to the influence of precedent upon the rulings of the Chair.

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[1] Second session Sixty-sixth Congress, Record, p. 5739.

[2] Horace M. Towner, of Iowa, Chairman.

On January 6, 1923,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union.

This paragraph was read:

For the purchase of a site on which to locate a 16-room building between Georgia Avenue and Sixteenth Street NW., north of Park Road, $60,000.

A point of order against the paragraph made by Mr. Thomas L. Blanton, of Texas, was sustained by the Chairman.

Immediately thereafter this amendment was offered by Mr. Louis C. Cramton, of Michigan:

For the purchase of additional land for school purposes adjacent to the Langley Junior High School, $215,000.

Mr. Blanton having made the point of order on the amendment, the Chairman[2] said:

The Chair recognizes the great force of the argument, and perhaps if this came before the Chair for the first time this afternoon he would agree to that contention, because the Chair thinks that some of these precedents are entirely too broad. But there they are as a part of the proceedings of this House, and it is the custom of the Chair to comply as nearly as he can with the precedents. In the opinion of the Chair there are one or two cases absolutely parallel with this case where it was held that it is in order to purchase land adjacent to an existing public work. It does not require it to be stated that there is an emergency existing, or that the work to be done is to be exactly similar to the work that is already going forward. In view of these precedents the Chair is going to hold this amendment in order and overrule the point of order.

1364. While the purchase of adjoining land for a work already established is held to be in continuation of a public work, the purchase of land not contiguous is not so construed.

On March 27, 1924,[3] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. C. B. Hudspeth, of Texas, proposed an amendment as follows:

That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $366,000 for the acquisition of 3,613 acres of land adjoining the Fort Bliss Military Reservation in Texas, as an addition to said Fort Bliss Military Reservation, for maneuvering and drill grounds, target practice, artillery practice, and other military purposes.

Mr. Daniel R. Anthony, jr., of Kansas, raised a question of order on the amendment.

The Chairman[4] ruled:

After wandering for a long time through the intricate maze of conflicting decisions relating to limitations, germaneness, and the Holman rule, it is really a joy to come out into the open sunshine where there is but one line of decisions and be able to follow this line. In reading the bill the Clerk had reached the item "Shooting galleries and ranges." This paragraph, among other things, provides ranges for small-arms target practice, and so on. To this paragraph the gentleman from Texas offers an amendment in effect providing for the acquisition of 3,600 acres of land adjoining the Fort Bliss Military Reservation in Texas as an

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[1] Fourth session Sixty-seventh Congress, Record, p. 1382.

[2] Frederick C. Hicks, of New York, Chairman.

[3] First session Sixty-eighth Congress, Record, p. 5084.

[4] John Q. Tilson, of Connecticut, Chairman.

addition to said Fort Bliss Military Reservation for maneuvering, drill ground, target practice, artillery practice, and other military purposes. It is conceded that this is a reservation established by law. While, technically, this might not be considered a proper amendment to this particular paragraph, the Chair does not now decide as to that point. If ruled out on such a point it could be immediately offered as a new paragraph, so that there would be nothing gained by overruling a technical point of order. The Chair prefers to decide the point of order upon its parliamentary merits.

The line of decisions is not a very long one, but this line has been uniform and is founded upon the principle, as the Chair believes, that a great public work having been begun it should not be possible for any one individual by making a point of order to prevent the expanding of that public work. In the case of schools additional ground might be needed for playgrounds. In the case of hospitals additional ground might be needed, and in the case of target ranges, undoubtedly, as indicated by the gentleman from Missouri [Mr. Cannon], year after year we have had to add to such reservations for the purpose of increasing the territory of our target ranges. The principle is that the Government having begun a work it should be able to proceed to enlarge it as the proper demands make necessary. From the parliamentary viewpoint it is immaterial whether the proposed additional land is a few feet or a million acres. It is the principle upon which the precedents are based, and the present occupant of the chair does not feel inclined to override such a principle.

Nothing would be gained, as the Chair sees it, by submitting the question to the decision of the membership of the House. There is nothing to prevent the committee from overruling the present decision of the Chair, with or without reason, as has been done in times past. Naturally, individual Members of the House oftentimes are influenced by the merits of the proposition. It is impossible to free themselves from such an influence, and no criticism is intended in referring to it here. If the membership of the House feel inclined to overrule the decision of the Chair in this particular case on account of the merits of the proposition, the present occupant of the Chair is not at all sensitive about such things, because he tries to rule according to what he believes to be right and best from the parliamentary standpoint, to maintain the orderly procedure of this House as it should be for the public good. Beyond this he is not at all concerned. The merits of the proposition in all cases should stand upon their own bottom. The Chair overrules the point of order.

Whereupon Mr. Elmer Thomas, of Oklahoma, offered this amendment:

For the purchase of a parcel of land containing forty-three and six-tenths acres more or less, lying adjacent to the north of the Canadian River in section 36, township 13 north, range 8, west of the Indian meridian in Canadian County, Okla. Said tract located directly opposite the Fort Reno pumping plant, and to be more particularly described in the instrument of conveyance. Said tract when acquired to be added to the Fort Reno Military Reservation, and to be used in an effort to straighten the course of the said North Canadian River, not to exceed $3,500.

A point of order made by Mr. Anthony against the amendment was sustained by the Chairman, as follows:

The Chair feels constrained to sustain the point of order on the ground that the land proposed to be acquired is not contiguous to any land owned by the Government.

1365. An appropriation for repair of a Government owned road was held to be in continuation of a public work.

On January 10, 1910,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. John T. Hull, of Iowa, offered an amendment, as follows:

For repairs and maintenance of military post-roads, bridges, and trails in the district of Alaska, $100,000.

[1] Second session Sixty-first Congress, Record, p. 494.

Mr. Robert B. Macon, of Arkansas, reserved a point of order on the amendment.

Mr. James R. Mann, of Illinois, contended that as the road for which the appropriation was proposed was a Government road, repairs for it were in the same class with repairs for Government buildings and were in order as in continuation of a public work.

The Chairman [1] said:

Accepting the statement of the gentleman from Iowa, chairman of the Committee on Military Affairs, and the proposer of the amendment, that these improvements which this amendment proposes to maintain and repair were built by the Government and paid for, not out of the Alaska fund provided by the act of 1905, but out of moneys appropriated in general appropriation acts by Congress, and paid out of the General Treasury, the Chair thinks that this amendment may be sustained. This amendment does not, like the original paragraph, refer at all to the set of 1905, which, as already shown, provided for the construction of wagon roads and pack trails to be paid for out of the Alaska fund, composed of license taxes locally collected. This amendment does not refer to such improvements built under that act, but provides for the maintenance of military and post roads, and so forth, already constructed by the Government out of funds appropriated by Congress from the General Treasury. The Chair therefore thinks the amendment in order and overrules the point of order.

1366. An appropriation for protection of a road owned and repaired by the Government is in order on an appropriation bill as a continuation of a work in progress.

On May 26, 1910,[2] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Napoleon B. Thistlewood, of Illinois, offered an amendment as follows:

For the completion of a protective fence along the roadway leading from Mounds to the national cemetery near Mound City, Pulaski County, Ill., and for the drainage of the ponds or borrow pits caused by the construction of said roadway, $3,000, to be expended under the Quartermaster-General.

Mr. John J. Fitzgerald, of New York, having reserved a point of order on the amendment, the Chairman [3] held:

The amendment offered by the gentleman from Illinois is—

"For the completion of a protective fence along the roadway leading from Mounds to the national cemetery near Mound City, Pulaski County, Ill., and for the drainage of the ponds or borrow pits caused by the construction of said roadway, etc."

Clause 2 of Rule XXI authorizes an appropriation in continuation of appropriations for such public works and objects as are already in progress. Of course it is a question of fact whether this is a public work in progress, but the Chair understands from the statements of gentlemen that this is a road owned and constructed by the United States under the general appropriations for repair of roadways to national cemeteries, and that a part of this fence has been constructed for that purpose. The ponds or borrow pits caused by the construction of said roadway, of course, are necessarily, or assumably necessarily, made by reason of the construction of the road, and hence are a part of the construction of the road and go with the construction of the road.

It seems to the Chair, under the circumstances, that it is clearly a road owned and repaired by the General Government and is a work that is in progress, and that the point of order is not well taken; and the Chair therefore overrules the point of order.

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[1] Marlin E. Olmsted, of Pennsylvania, Chairman.

[2] Second session Sixty-first Congress, Record, p. 6935.

[3] James R. Mann, of Illinois, Chairman.

1367. While repairs of buildings used in the public service are held to be in continuation of a public work, improvements for such buildings do not come within the rule.

An appropriation for repairs and other expenses for the care, preservation, and improvement of the public buildings and grounds of the Weather Bureau was held not to be in order on an appropriation bill.

On March 1, 1912,[1] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read:

Contingent expenses, Weather Bureau: For fuel, lights, repairs, and other expenses for the care, preservation, and improvement of the public buildings and grounds of the Weather Bureau in the city of Washington; for stationery and blank books, furniture and repairs to same, and freight and express charges; for subsistence, care, and purchase of horses and vehicles, and repairs of harness, for official purposes only; for advertising, dry goods, twine, mats, oils, paints, glass, lumber, hardware, ice, washing towels, and other miscellaneous supplies and expenses not otherwise provided for in the city of Washington, $25,000.

Mr. William A. Cullop, of Indiana, raised a question of order on the words "and improvement" as contained in the paragraph.

The Chairman[2] ruled:

In the opinion of the Chair the words "and improvement" are entirely too broad. They do not appear to refer to existing work and they are not appropriate for that purpose. And the statement of the gentlemen from South Carolina on the provisions of the previous appropriation bill seems to bear out that idea. While the amount carried is small and might not justify all the gentleman from Indiana has said, it is unquestionably true the words are entirely too broad, and the point of order is sustained.

The Chair will say that under section 3752 of Hinds' Precedents there appears a ruling on April 10, 1900, to the effect that an appropriation for a new building on the Agricultural Department grounds was subject to a point of order, appearing in an appropriation bill.

The language used in this appropriation bill, the simple words "an improvement," in the opinion of the Chair, would justify anything that was classed as an improvement of real estate, and certainly it would be a very broad use of language. That being true, if the language is limited to a specific building or specific repairs, the point of order would not lie. The ruling of the Chair is that the point of order is sustained.

1368. The repair of buildings other than those owned by the Government was held not to be in continuation of a public work.

An appropriation for the installation of a heating plant in a privately owned building rented by the Government is not in order on an appropriation bill.

On September 19, 1919,[3] the deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Otis Wingo, of Arkansas, made a point of order against the following provision in the bill:

And heating apparatus for and repairs to buildings (outside of the State, War, and Navy Department Building) occupied by the War Department and its bureaus.

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[1] Second session Sixty-second Congress, Record, p. 2693.

[2] William P. Borland, of Missouri, Chairman.

[3] First session Sixty-sixth Congress. Record. p. 5570.

The Chairman [1] decided:

The point of order is made to the language:

"Heating apparatus for and repairs to buildings (outside of the State, War, and Navy Department Building) occupied by the War Department and its bureaus."

In the view of the Chair this calls for the expenditure of money upon other than Government property, and unless there is statutory authority for such an expenditure of money that language, in the opinion of the Chair, is subject to a point of order, and the point of order is sustained.

1369. The maintenance of any physical property of the Government is in order as a continuation of a public work in progress, and express legislative authorization is unnecessary.

The existence of a fort used in the Government service is sufficient authorization for an appropriation for its protection and preservation.

On April 13, 1920,[2] the fortifications appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. James W. Overstreet, of Georgia, offered this amendment:

For the protection of the shores of Fort Screven, Ga., $500,000.

Mr. Martin B. Madden, of Illinois, having raised a question of order, Mr. Joseph W. Byrns, of Tennessee, said:

There has been no legislation authorizing the construction of this sea wall, but I submit that where a public improvement exists Congress has authority without express legislation to make an appropriation to keep it in order and to preserve it, and that is all this amendment does.

There is a fort at Fort Screven, Ga. This is to keep the reservation from washing away and protect the armament.

The Chairman [3] overruled the point of order.

1370. A proposition to repair a public building is in order as a continuation of work in progress if such repairs are for the use and purpose for which the building was originally provided, but not otherwise.

An appropriation to render serviceable an additional story of a building provided for the use of the Court of Appeals of the District of Columbia was admitted as in continuation of a public work in progress, but a similar appropriation to adapt this portion of the building for accommodation of the recorder of deeds was ruled out of order.

A proviso that an appropriation for repair of a building not within the jurisdiction of the Superintendent of the Capitol Building and Grounds should be expended under his direction was held to propose legislation.

On December 17, 1920,[4] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was read:

Court of Appeals Building: For fitting up the top story and basement of the Court of Appeals Building to provide accommodations for the office of the recorder of deeds, including material and labor and each and every item incident to such work, $22,000, to be available immediately. This

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[1] Joseph Walsh, of Massachusetts, Chairman.

[2] Second session Sixty-sixth Congress, Record, p. 5629.

[3] Rollin B. Sanford, of New York, Chairman.

[4] Third session Sixty-sixth Congress, Record, p. 492.

work and the expenditure of this sum shall be under the supervision and direction of the Superintendent of the Capitol Building and Grounds.

Mr. Joseph Walsh, of Massachusetts, having raised a point of order on the paragraph, Mr. Louis C. Cramton, of Michigan, maintained:

Mr. Chairman, the rule provides the exception that an expenditure in continuation of appropriations for such public works and objects as are already in progress shall be in order.

The Court of Appeals Building was authorized several years ago, and an appropriation was made. The building has been largely completed, but there is a large space on the third floor and some room in the basement that has not been finished up and completed. We have heretofore made an appropriation of $6,000 a year for rental for offices for the register of deeds, and it seemed wise to the committee, since we had this space available in the Court of Appeals Building, to make use of that space rather than to pay $6,000 a year for space in a private building; and hence we recommended an appropriation of $22,000, which we were advised would be sufficient to complete the building, and if it is made immediately available we are advised the building can be completed and made suitable for the purposes desired by the 1st of July, and the appropriation of $6,000 for office rental would be unnecessary. I want to call the attention of the Chair to the language of the original appropriation:

"For the erection of a fireproof addition to the courthouse of the District of Columbia, for the use of the Court of Appeals of said District, including such fireproof vaults that may be necessary to protect from destruction the papers and records of said court, and proper heating and ventilating apparatus, to be constructed under the supervision of and on plans to be furnished by the Superintendent of the Capitol Building and Grounds, and approved by the Attorney General, $200,000 is authorized."

I urge that the appropriation here is simply for continuing the project.

The Chairman [1] ruled:

The Chair realizes that there is a good deal of latitude used in the matter of the continuation of work on public buildings, but in view of the fact that the law mentions that this building shall be erected for the Court of Appeals, and no mention is made of the office of the recorder of deeds, the Chair feels that the point of order is well taken, and so rules.

Whereupon Mr. Cramton offered the following amendment:

Court of Appeals Building: For fitting up the top story and basement of the Court of Appeals Building, including material and labor and each and every item incident to such work, $22,000, to be available immediately. This work and the expenditure of this sum shall be under the supervision and direction of the Superintendent of the Capitol Building and Grounds.

Mr. Walsh again raised the question of order.

The Chairman said:

In sustaining the point of order a few moments ago made against the paragraph by the gentleman from Massachusetts, the Chair based his decision on the fact that the law authorizing the construction of the building did not contemplate or include the office of the recorder of deeds. While this objection was sufficient in the opinion of the Chair to sustain the objection, the last part of the paragraph, which is evidently legislation, would have been sufficient grounds to render a similar decision had the objection been made. In the amendment offered by the gentleman from Michigan the objection on which the Chair's previous ruling was based has been removed. It seems clear to the Chair that if the completion of the building by fitting up certain portions of it, or even if an addition was contemplated, no objection could lie against the amendment, and to fortify this opinion the Chair cites paragraph 3774, Volume IV, of Hinds, where "the purchase of additional ground and the erection of an addition to an existing building was held to be in continuation of a public work." Clearly, if an addition is in order, the fitting up of

[1] Frederick C. Hicks, of New York, Chairman.

offices is in order, and the Chair could cite other rulings, for, as the gentleman from Illinois has said, it has been held a number of times that an addition to an authorized building is in order on an appropriation bill. The Chair feels that the objection raised because of the words "to be immediately available" is not well founded, for it would appear that the immediate rendering available of funds is within the province of the Appropriations Committee. The last clause, however, which states "it shall be under the direction of the Superintendent of the Capitol Buildings and Grounds," in the opinion of the Chair taints the entire amendment, for it is legislation on an appropriation bill, and on this count the Chair sustains the point of order.

1371. Appropriations for rent of buildings used in the public service, even though isolated from the Government establishment with which connected, are in continuation of a public work and in order on appropriation bills.

On February 11, 1921,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Fred A. Britten, of Illinois, raised a question of order on an appropriation "for rent of buildings and offices not in navy yards."

Mr. Patrick H. Kelley, of Michigan, cited in support of the item the decision reported at section 3777 of Hinds' Precedents.

The Chairman[2] ruled:

The gentleman from Illinois makes the point of order against the language "for rent of buildings and offices not in navy yards." Under the decision cited by the gentleman from Michigan the Chair there held that an appropriation for the repair of buildings was an appropriation for the continuance of public works, and the Chair feels that under the precedent established the language is in order and therefore overrules the point of order.

1372. An appropriation for improvement of a quarantine station, including the building of wharves, was held to be in continuation of a public work.

To a bill containing two items appropriating for quarantine stations an amendment proposing an appropriation for another quarantine station was held to be germane.

On May 23, 1921,[3] the deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, and the Clerk had read two paragraphs providing appropriations for the improvement of quarantine stations at New York and Boston respectively.

Mr. John Philip Hill, of Maryland, offered the following amendment.

Baltimore, Md., Quarantine Station: For improvements, including the building of wharves, to continue available during the fiscal year 1922, $75,000.

Mr. Thomas L. Blanton, of Texas, made the point of order that the amendment was legislation and was not germane.

The Chairman[4] ruled:

The gentleman from Maryland offers this amendment: "Baltimore quarantine station: For improvement, including rebuilding of wharves, to continue available during the fiscal year 1922, $75,000."

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[1] Third session Sixty-sixth Congress, Record, p. 3013.

[2] Joseph Walsh, of Massachusetts, Chairman.

[3] First session Sixty-seventh Congress, Record, p. 1655.

[4] Philip P. Campbell, of Kansas, Chairman.

To that amendment the gentleman from Texas makes a point of order that it is legislation on a deficiency appropriation bill. The amendment is a germane amendment to an item in the bill; the Chair thinks it is in order. Being an appropriation for repairs on Government property, it would be in order as an independent item, and the Chair overrules the point of order.

1373. An appropriation for the paving of street in the District of Columbia was held to be in continuation of a public work.

On May 3, 1924,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

Northwest: For paving Varnum Street, Second Street to Fourth Street, 30 feet wide, $11,600

Mr. Thomas L. Blanton, of Texas, made the point of order that the paragraph proposed legislation.

The Chairman[2] said:

The statute specifies how the estimates shall be made to Congress, and provides that in submitting the schedules of streets and avenues to be improved the commissioners shall arrange such streets and avenues in the order of their importance, and so forth. That estimate, of course, goes to the Congress. Then the Congress passes upon the matter as to how far it shall go in providing the money for these purposes. The gentleman from Texas says that special authority should be given by the District Committee for such work. However, the Chair finds on a hasty examination of the authorities as given in the House Manual the following citations which the Chair has not had time to look up, but assumes properly bear out the syllabus:

"But appropriations for rent and repairs of buildings, for Government roads, and purchase have been admitted as in continuation of a work, although it is not in order as such to provide for a new building in place of one destroyed."

The Chair has referred to the opinion in Fourth Hinds, paragraph 3779, which was a proposition to repair a pavement originally laid in that case in the city of Chicago, where a pavement had been laid by the Government adjacent to a Federal building in that city. The opinion was by Mr. Watson, now Senator Watson, of Indiana, and it goes off on the proposition entirely as to whether this road was a Government road—that is, whether the fee of the road was in the Government or not—holding by implication that if the fee was in the Government, then it was a work in progress, but inasmuch as the fee was in the city of Chicago a point of order was good against such an appropriation. Now, the fee of the streets of the District of Columbia is in the United States; they are Government roads, existing works. Corpus Juris (vol. 18, p. 1373) cites the authorities upon this proposition, citing principally Morris *v.* United States (174 U. S. 196). The point of order is overruled.

1374. An appropriation for appliances necessary for the proper operation of a target was held to be in continuation of a public work.

On January 30, 1909,[3] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Robert B. Macon, of Arkansas, raised a point of order on this paragraph:

Annunciator buzzer systems at target ranges: For installation of annunciator buzzer systems at target ranges at Fort Ethan Allen, Vt.; Fort Niagara, N. Y.; Fort Leavenworth, Kans.; Fort Riley, Kans.; Fort Sam Houston, Tex.; Fort Sheridan, Ill.; Presidio of Monterey, Cal.; and Fort William McKinley, P. 1., $18,200.

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[1] First session Sixty-eighth Congress, Record, p. 7784.

[2] William J. Graham, of Illinois, Chairman.

[3] Second session Sixtieth Congress, Record, p. 1042.

The Chairman [1] ruled:

These ranges have all been authorized by law. There are a number of target ranges authorized by law and intended for the purpose of target practice for the improvement of marksmanship of the Army. Those have been established, and it seems to the Chair very clear that any ordinary appliance necessary for the proper practice of the men in the target ranges is not new legislation, but is continuing work that has been undertaken, and is perfecting a system that has already been established by Congress. It is evident that this installation of these buzzers is for the more rapid and more convenient record of the shots that have been made and for the information of those that are taking part in the practice. The Chair overrules the point of order.

1375. An appropriation for maintenance and equipment of public playgrounds in the District of Columbia was held in order on an appropriation bill as in continuation of a work in progress.

On December 17, 1909,[2] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the following paragraph was reached:

Playgrounds: For repairs, equipment, and supplies, $3,000.

Mr. Robert B. Macon, of Arkansas, made the point of order that there was no law authorizing the provision.

Mr. James R. Mann, of Illinois, said in debate:

Mr. Chairman, if the Government had purchased a site for a building and new grounds it would not be in order upon an appropriation bill to provide for the construction of a building, but if the Government had constructed a building upon ground already owned by it, it would be in order to provide for the maintenance of the building, for the cleaning of the building, and for the repair of the building. Now, a playground is not a building. That term means exactly what it says. It shows its purpose in its title. A playground is a playground, and when once acquired can be used and maintained without a building. If this proposition contemplated a building without authority of law, it would not be in order, but all it provides for is for repairs, equipment, and supplies. In the last appropriation act there was an item under the head "Playgrounds" for the improvement and equipment of the Georgetown site, $5,000. As I understand it, we had already acquired the Georgetown site. There is a playground improved and equipped, and here is a proposition simply to carry on that work in the same way that we carry on the maintenance of a post-office building-clean it and sweep it, and provide it with janitor service, and with heat and light. It does not require a special act of Congress to provide for this, except in an appropriation act making available the money.

The Chairman [3] ruled:

The question raised by this point of order is not whether the Government is compelled to maintain these playgrounds, but whether this proposed appropriation is in violation of the rule of this House against expenditures not previously authorized by law. There is a notable exception to the rule, namely, in the case of the continuation of appropriations for such public works and objects as are already in progress. There is no dispute that these playgrounds are already in progress or in operation. This bill proposes an appropriation for the repairs, equipment, and supplies for these playgrounds. In 1900, on December 30, when the Indian appropriation bill was under consideration, Mr. Joseph G. Cannon, of Illinois, offered an amendment to equip vessels of the Coast and Geodetic Survey. The same point of order was made there that is made

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[1] James B. Perkins, of New York, Chairman.

[2] Second session Sixty-first Congress, Record. p. 225.

[3] Marlin E. Olmsted, of Pennsylvania, Chairman.

here, but Mr. Boutell, of Illinois, then in the chair, overruled the point of order, and considered the equipment as in continuation of a public work already in progress.

Another case which has been cited and which seems to be directly in point is that of an appropriation for current repairs and improvements at the Botanic Gardens. A point of order was made against that upon the 22d of March, 1906, and it was held by the present occupant of the Chair, then as now occupying the chair in Committee of the Whole House on the state of the Union, that that was an appropriation in continuation of a public work.

The Chair has no doubt that this proposed appropriation to which this point of order is made comes fairly within the exception to the rule, and therefore overrules the point of order.

1376. On January 28, 1911,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

Playgrounds: For maintenance, repairs, including labor, equipment, supplies, and necessary incidental and contingent expenses, $3,000.

Mr. Ben Johnson, of Kentucky, made the point of order that the paragraph was not authorized by existing law.

The Chairman[2] referred to a decision on a point of order made the preceding year against a similar paragraph, and said:

In the consideration of the district appropriation bill last year substantially the same question arose, and the Chair, in deciding the question at that time, used this language:

"The question raised by this point of order is not whether the Government is compelled to maintain these playgrounds, but whether this proposed appropriation is in violation of the rule of this House against expenditures not previously authorized by law. There is a notable exception to the rule, namely, in the case of the continuation of appropriations for such public works and objects as are already in progress. There is no dispute that these playgrounds are already in progress or in operation. This bill proposes an appropriation for the repairs, equipment, and supplies for these playgrounds. In 1900, on December 30, when the Indian appropriation bill was under consideration, Mr. Joseph G. Cannon, of Illinois, offered an amendment to equip vessels of the Coast and Geodetic Survey. The same point of order was made there that is made here, but Mr. Bouteu, of Illinois, then in the chair, overruled the point of order, and considered the equipment as in continuation of a public work already in progress."

Following that line of argument, the Chair then overruled the point of order, and it seems clear to the Chair in the present case that these parks having been acquired by the Government and being now in use in the District of Columbia, an appropriation for their maintenance is in order. It is not the province of the Chair to decide whether the Government should maintain these parks out of the revenues derived wholly from the District or on the half-and-half plan. It is only for the Chair to decide whether or not this paragraph is in order. It seems to the Chair that these parks being owned by the Government, it is in order to appropriate for their maintenance. Therefore the point of order is overruled.

1377. An appropriation for supplying free schoolbooks for the use of pupils in the District of Columbia was held not to be in continuation of a work in progress.

An amendment qualifying or limiting a class of beneficiaries of an appropriation is germane to the paragraph providing the appropriation.

On January 28, 1911,[3] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. To

[1] Third session Sixty-first Congress, Record. p. 1579.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] Third session Sixty-first Congress, Record, p. 1597

a pending paragraph of the bill providing an appropriation to supply free textbooks to pupils Mr. Ben Johnson, of Kentucky, offered an amendment providing that free books should be supplied "for the use of indigent pupils" only.

Mr. Washington Gardner, of Michigan, made the point of order that the amendment changed existing law.

The Chairman [1] ruled:

The gentleman from Kentucky offers an amendment which limits the appropriation for textbooks and school supplies to indigent pupils. It might be claimed that, so far as school supplies are concerned, there would be authority of law to appropriate the money, as for an object or a work in progress, similar to the authority for appropriating money for ammunition for guns for the Army, and that the supplies were properly for the use of all pupils who of right attend the schools; but to carry this contention to the further extreme and say that it would extend to textbooks would be a far-fetched ruling. There being no authority of law for providing textbooks for pupils, that provision would be subject to a point of order. It being subject to a point of order, then it is in the province of any gentleman to offer a germane amendment. To qualify, the class who may receive the textbooks is properly germane. The Chair holds that the amendment offered by the gentleman from Kentucky is germane and is in order. The point of order is therefore overruled.

1378. Appropriations for necessary repairs and expenses of playgrounds owned or maintained by the Government in the District of Columbia are in order on appropriation bills as continuations of work in progress.

On January 18, 1912,[2] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Playgrounds: For maintenance, repairs, including labor, equipment, supplies, and necessary incidental and contingent expenses, $3,000.

Mr. Ben Johnson, of Kentucky, reserved a point of order on the paragraph.

Mr. James R. Mann, of Illinois, said in debating the point of order:

It would not make any difference whether the Government owns the ground, or is in control of the ground and owns all the equipment on the ground. No other authorization is necessary. The Government may own a building on leased ground, as the Chair will readily see. If it owns a building upon leased ground, it is authorized to maintain the building. If it owns a playground upon leased ground, it is authorized to maintain the playground as a work already in progress. Unless the Government has provided in some way for the existence of the playground and the starting of the work, it would not be authorized to start it here; but the Government has heretofore provided appropriations for the purchase of playgrounds and for their equipment, and if the Government has equipped a playground, as it has under previous provisions, then it is in order to make an appropriation now to maintain the playgrounds heretofore equipped. My recollection is that that identical question has been ruled upon in previous years.

The Chairman [3] held:

The Chair understands that there are a number of playgrounds established by law in the District of Columbia. As to whether there are other playgrounds that are not officially recognized the Chair has no information, but the Chair must presume that in the administration of the law those chargeable with its administration will confine their expenditures to the legal, legitimate

[1] William H. Stafford, of Wisconsin, Chairman.

[2] Second session Sixty-second Congress, Record, p. 1093.

[3] Finis J. Garrett, of Tennessee. Chairman.

playgrounds. The point made by the gentleman from Illinois that for the continuation of a work, if any, in progress—that is, for the maintenance of an existing work—it is in order to make appropriation, is certainly well buttressed by precedent. The Chair thinks that is a fair construction of the rule, and the Chair overrules the point of order.

1379. An appropriation for a reflecting pool in Potomac Park was held to be in continuation of a work in progress.

On June 20, 1919,[1] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. James W. Good, of Iowa, offered an amendment as follows:

For commencing construction of a reflecting pool in West Potomac Park, $200,000.

Mr. James P. Buchanan, of Texas, having raised a question of order, the Chairman[2] said:

As the appropriation is in pursuance of a work in progress, namely, the development of park work, the Chair thinks this amendment would not be subject to the point of order. It is in the nature of a work in progress of developing the park, and the Chair would hold the point of order is not well taken.

1380. An appropriation for improvements to an existing plant owned and operated by the Government was held to be in continuation of a work in progress.

On February 12, 1921,[3] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

Navy yard, Mare Island, Calif.: Maintenance of dikes and dredging, $175,000; improvements to central power plant, $150,000; in all, $325,000.

In response to a point of order by Mr. Fred A. Britten, of Illinois, against the provision for "improvements to central power plant," Mr. James R. Mann, of Illinois, said:

Mr. Chairman, if there is a building there, a power plant there, and there has been no limit of cost fixed by Congress, it is quite in order to make an appropriation to improve it or to add to it, or to put foundations under it or a roof over it or to put up side walls or inside walls and plaster them, as far as that is concerned.

The Chairman[4] overruled the point of order.

1381. An appropriation for the grading and drainage of land owned by the Government in connection with a submarine base was held to be in continuation of a work in progress.

On February 12, 1921,[5] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

Submarine base, Coco Solo, Canal Zone: Grading and drainage, $40,000.

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[1] First session, Sixty-sixth Congress, Record, p. 1477.

[2] Martin B. Madden, of Illinois, Chairman.

[3] Third session Sixty-sixth Congress, Record, p. 3089.

[4] Joseph Walsh, of Massachusetts, Chairman.

[5] Third session Sixty-sixth Congress, Record, p. 3093.

Mr. Fred A. Britten, of Illinois, submitted that the paragraph proposed legislation.

After ascertaining that the land in question was the property of the Government, the Chairman [1] overruled the point of order.

1382. The continuing of a topographical survey was held to be the continuation of a public work.

On December 29, 1922,[2] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union when the Clerk read this paragraph .

For topographic surveys in various portions of the United States, including lands in national forests, $324,500.

Mr. James T. Begg, of Ohio, having raised a question of order on the paragraph, Mr. James P. Buchanan, of Texas, called attention to a decision of a similar question made June 13, 1906.

The Chairman [3] ruled:

The question presented has already been practically if not absolutely decided. The language in the case which has just been cited by the gentleman from Texas is almost identical with the language in the present clause in the appropriation bill. The language to which objection was made June 13, 1906, where this proposition before the House was "for topographical surveys in various portions of the United States, $300,000, to be immediately available." Gentlemen will recognize the fact that that language is fully as broad as the language contained in the present appropriation bill. The Chair in the case cited overruled the point of order, although the situation was disclosed just as it has been disclosed here, and the objection made was, that the language authorizing the appropriation was not found in the existing law. The Chair, however, decided in that case that he would be unable to find justification for sustaining the point of order because it was shown that the work was a continuing work.

The Chair desires to call attention to the following language in section 603 of Barnes' Federal Code as a part of the chapter which has reference to the Geological Survey providing for various publications in the Geological Survey, and the publication of maps, and for other work of that character. As long as the Chair can find justification for it in previous decisions, and as long as he can find justification for it in the continuation of work already begun, and in this case especially when regard is had for the fact that this work is a continuing work, being carried on from year to year in cooperation with the States who are making contributions from State funds for carrying on the work, and in view of the fact that the Chair has no right to presume that money will be used illegally and without authority at law, the Chair overrules the point of order.

1383. The continuing of development of a public park in the District of Columbia was held to come within the rule as continuing a work in progress.

A provision admissible under the rule was ruled out of order on account of accompanying legislation.

On January 8, 1923,[4] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

For continuing the reclamation and development of Anacostia Park, to be extended in accordance with the plans specified in the item for the reclamation of the Anacostia River and Flats

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[1] Joseph Walsh, of Massachussetts, Chairman.

[2] Fourth session Sixty-seventh Congress. Record, p. 1087.

[3] Horace M. Towner, of Iowa, Chairman.

[4] Fourth session Sixty-seventh Congress, Record, p. 1439.

contained in the District of Columbia appropriation act for the fiscal year 1919, $150,000, to be expended below Benning Bridge.

Mr. Thomas L. Blanton, of Texas, made the point of order that the paragraph involved legislation.

Mr. Louis C. Cramton, of Michigan, explained:

Mr. Chairman, the item in question is an appropriation for the continuation of the reclamation and development of the Anacostia Park, and clearly it is an appropriation to continue an existing project. The work is under way, and this is simply to continue that work. The act of 1919 provided for this project, and provided for the levying of assessments, and so forth. Of course, the Chair is familiar with the fact that permanent law can be carried just as effectively in an appropriation act as in any other place. There may be some question as to the jurisdiction of the committee in reporting it which would make it subject to a point of order in the House, but if the point of order is not made and the bill passes and carries that language it is just as much permanent law as otherwise. This project began in 1915 or prior thereto.

The Chairman [1] ruled:

The Chair is in sympathy with the propositions that we pass upon very frequently in regard to the continuation of a public work already in progress, but it seems to the Chair that there is a degree of unwarranted legislation involved in this paragraph, and on that ground the Chair sustains the point of order.

Thereupon Mr. Cramton offered an amendment, as follows:

For continuing the reclamation and development of Anacostia Park, $150,000, to be expended below Benning Bridge.

The Chairman overruled a further point of order presented by Mr. Blanton against the amendment and said:

The main objection to the item ruled upon before was the legislation in it, although the Chair did have some objection to the other feature of it; but on the broad-gauge plan that has been in practice in reference to public works the Chair will hold this amendment in order, because the amendment is relieved of the objectionable feature of the legislation.

1384. An appropriation for repairing and reconstructing the main conservatory in the Botanic Garden was held to be the continuation of a public work.

On February 24, 1923,[2] the third deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and this paragraph had been reached.

For repairing and reconstructing the main conservatory of the Botanic Garden, including personal services, labor, materials, and all other expenses incident to such work, fiscal years 1923 and 1924, $117,365. The foregoing work shall be performed under the supervision of the Architect of the Capitol after consultation with the Director of the Botanic Garden.

Mr. William H. Stafford, of Wisconsin, reserved a point of order on the paragraph.

After debate, the Chairman [3] ruled:

It is perfectly obvious that this appropriation is not for the construction of a new building. The language of the paragraph is quite plain: "For repairing and reconstructing" and it is quite

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[1] Frederick C. Hicks, of New York, Chairman.

[2] Fourth session Sixty-seventh Congress, Record, p. 4562.

[3] Clifton N. McArthur, of Oregon, Chairman.

apparent, in view of the facts that have been related and brought out in this discussion, that the reconstruction, in this instance, means nothing more than the putting in of necessary repairs. The Chair is of the opinion that this is nothing more than repairs, perhaps on a large scale, but none the less repairs in the interest of the safety of the people who may have occasion to visit this institution. The Chair, therefore, overrules the point of order.

1385. An appropriation for construction of bridges on Indian reservations was held not to be in continuation of work in progress.

On January 26, 1924,[1] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. John Morrow, of New Mexico, offered an amendment proposing:

For the construction of steel bridges across the Rio Grande within the Cochiti and San Juan pueblo land grants, New Mexico, under the direction of the Secretary of the Interior, $82,200: *Provided,* That such sum shall be reimbursed to the United States from any funds now or hereafter placed in the Treasury to the credit of the Indians of said pueblos.

Mr. Cramton thus raised a question of order:

Mr. Chairman, it is my information that we have never appropriated funds from the Treasury for building roads or bridges for the Indians; and this item, while it appears to be reimbursable, the gentleman freely admits that there is no prospect of it being reimbursed. Therefore I am obliged to make the point of order that the item is not authorized by existing law.

The Chairman[2] sustained the point of order.

1386. A proposition to transfer Government equipment to a place not designated was held not to be in order as continuation of a work in progress.

On March 21, 1924,[3] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Loring M. Black, jr., of New York, offered an amendment proposing the removal of a telephone exchange at the Brooklyn Navy Yard.

Mr. Thomas L. Blanton, of Texas, made the point of order that the proposition involved a change of law.

The Chairman[4] held:

The amendment offered by the gentleman from New York reads:

"Transfer of yard telephone exchange from building No. 13 to some other place within the yard, to be designated by the commandant, $10,000."

The only question is whether this might be held to be an appropriation in continuation of appropriations for public works and objects already in progress. The Chair does not know anything about the physical situation in this particular navy yard, but under this amendment it would be possible for the commandant to direct the taking of the telephone exchange out of building No. 13 and to even erect a suitable building for it at some other place within the yard and there house it. The Chair thinks it is plainly subject to a point of order, and therefore sustains the point of order.

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[1] First session Sixty-eighth Congress, Record, p. 1495.

[2] Cassius C. Dowell, of Iowa, Chairman.

[3] First session Sixty-eighth Congress, Record, p. 4656.

[4] William J. Graham, of Illinois, Chairman.

1387. An appropriation for the acquisition of land contiguous to a national park and conforming to the original purpose for which the park was established was held in order as continuing a work in progress.

On March 28, 1924,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. John E. Rankin, of Mississippi, proposed an amendment, as follows:

For the extension of a park through the acquisition, by purchase or otherwise, of a strip of land, contiguous to the park, 66 feet wide, to connect the Shiloh National Military Park and the Corinth (Miss.) National Cemetery; such land to be acquired along or near the present main road from the Shiloh National Military Park to the Corinth National Cemetery, located on the battle field of Corinth, the center of such strip to follow as nearly as practicable along the survey heretofore made by Park Engineer Thompson; and for the construction of a hard-surface road and necessary bridges along the center line of such strip from the park to the Corinth National Cemetery; and for the erection of historical markers along such strip to show the movements of troops and other matters of historical interest in connection with the Civil War Battles of Shiloh and Corinth; in all, $70,000.

Mr. Daniel R. Anthony, jr., of Kansas, made the point of order that the expenditure was not authorized by law.

The Chairman[2] held:

It appears on the face of this amendment that it is simply an extension of the Shiloh National Park. Shiloh National Park is a park created by the Government to commemorate the great battle that took place on this ground. On the line of decisions referred to in a similar case yesterday, the Government can expand this park. The question arises whether the land to be acquired is for the expansion of the park. The land to be acquired is all land over which troops in this battle passed. It can not be ruled out on the ground that it is not proper land to be added to this park for the original purpose for which it was established, much as the Chair is included to limit this principle to where the land to be acquired is a proper extension of the original purposes for which the Government work was originally established. Therefore, in accord with all the precedents that have been made, the Chair feels constrained to hold that the amendment is in order.

1388. An appropriation for completion of a project previously authorized by law without limitation of cost was admitted as in continuation of a work.

On May 3, 1924,[3] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Thomas L. Blanton, of Texas, raised a question of order on the following paragraph:

For completion of trestle and bins in N Street NE., between First Street and Second Street, $20,000.

Mr. Charles R. Davis, of Minnesota, explained:

Mr. Chairman, in the act of October, 1922, we appropriated $20,000 for the completion of a trestle and bins at N Street NE., between First and Second Streets, and this is simply a continuation of that work and sufficient to carry out the provision.

The Chairman[4] overruled the point of order.

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[1] First session Sixty-eighth Congress, Record, p. 5181.

[2] John Q. Tilson. of Connecticut, Chairman.

[3] First session Sixty-eighth Congress, Record, p. 7787.

[4] William J. Graham, of Illinois, Chairman.

1389. An appropriation for the construction of public bridges in the District of Columbia was held to be the continuation of a public work.

On May 3, 1924,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

For construction and repair of bridges, including an allowance at the rate of $26 per month to the overseer of bridges for the maintenance of an automobile for use in performance of his official duties, and including maintenance of motor vehicles, $30,000.

Mr. Thomas L. Blanton, of Texas, made the point of order that the provision for "construction" of bridges was legislation.

The Chairman[2] referred to a former decision[3] on a similar question, and overruled the point of order.

1390. A proposition for the construction of a public bathing beach in the District of Columbia was ruled out of order as proposing legislation, but an appropriation to provide bathing facilities in a public park in the District was held to be in order as a continuation of work in progress.

On June 4 1924,[4] the second deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and this paragraph had been reached:

For the construction and maintenance of a bathing beach and bathhouse for the colored population of the city, $50,000, to remain available until June 30, 1925.

A point of order on the paragraph, presented by Mr. Thomas L. Blanton, of Texas, was sustained by the Chairman.[2]

Whereupon Mr. Martin B. Madden, of Illinois, offered the following amendment:

For construction and development work in Potomac Park, on the west shore of the Tidal Basin, to provide public bathing facilities and for the maintenance thereof, $50,000, to remain available until June 30, 1925.

Mr. Blanton again interposed a point of order, contending that the amendment was a "subterfuge" to effect indirectly the purpose of the paragraph just stricken from the bill.

The Chairman said:

Whether or not this is a subterfuge is not for the Chair to determine. If it be a subterfuge, it is quite skillfully constructed, so as to get by the point of order made by the gentleman from Texas. The work of Potomac Park was authorized by law, has been in progress for a number of years, and appropriations are made year after year for the continuation of the work.

The language of the amendment provides only for construction and development work such as has been going on there for years, as we all know. The appropriation is made for development work in Potomac Park which is already authorized. Therefore the Chair is constrained to hold that the amendment is not subject to a point of order and overrules the point of order.

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[1] First session Sixty-eighth Congress, Record, p. 7789.

[2] William J. Graham, of Illinois, Chairman.

[3] Hinds' Precedents, section 3794.

[4] First session Sixty-eighth Congress, Record, p. 10532.

Chapter CCXXIII.[1]

LEGISLATION IN GENERAL APPROPRIATION BILLS.

1391. A provision purporting to reenact existing law, unless couched in the exact phraseology of the statute proposed to be reenacted, is legislation.

On April 16, 1908,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph was reached providing for the construction of submarine torpedo boats.

Mr. William E. Humphrey, of Washington, offered an amendment as follows:

Provided, That any number of such submarine torpedo boats may be built upon either coast as the Secretary of the Navy may direct.

In response to a point of order submitted by Mr. James A. Tawney, of Minnesota, Mr. Oscar W. Underwood, of Alabama, said:

Mr. Chairman, I simply wish to say this: That if under the present paragraph the Secretary of the Navy can build these boats wherever he pleases, then the amendment of the gentleman from Washington does not change existing law; and it seems to me that it is in order.

The Chairman[3] held:

That construction would cause the Chair to rule exactly as to what the law is. The Chair could not know what all the law is. The Chair might not be able to determine whether the existing provision is existing law. The Chair thinks that a provision in form legislative, which purports to state existing law, unless it be the exact phraseology of the existing statute, is legislation, and is obnoxious to the rule. The Chair, therefore, sustains the point of order.

1392. While reenactment of law is not subject to a point of order, a provision for observing a statute which has been superceded by subsequent enactments is legislation and is not in order on an appropriation bill.

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[1] Supplementary to Chapter CXVII.

[2] First session Sixtieth Congress, Record, p. 1827.

[3] James R. Mann, of Illinois, Chairman.

An amendment providing that purchase be in conformity with a section of the Revised Statutes circumscribed by later enactments was held to change existing law.

On February 19, 1910,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

For the purchase of goods and supplies for the Indian service, including inspection, pay of necessary employees, and all other expenses connected therewith, including advertising, telegraphing, telephoning, and the transportation of Indian goods and supplies, $300,000: *Provided,* That hereafter the purchase of Indian supplies shall be made in conformity with the requirements of section 3709 of the Revised Statutes of the United States.

Mr. Richard Bartholdt, of Missouri, made the point of order that the proviso in the paragraph provided for a change of law.

The Chairman[2] ruled:

This proviso is:

"That hereafter the purchase of Indian supplies shall be made in conformity with the requirements of section 3709 of the Revised Statutes of the United States."

Section 3709 of the Revised Statutes provides that—

"All purchases and contracts for supplies or services in any department of the Government shall be made"—

And so forth.

Now, the Chair finds that there have since been passed certain acts of Congress found in the Statutes at Large, volumes 17, 18, and 19, relating to the purchases of supplies, and so forth, in the Indian Department, making special provisions for that department, and that is what the gentlemen meant, the Chair understands, when they referred to the special law. Now, this proviso clearly would repeal or change these so-called "special laws" and make the purchases subject to the requirements of section 3709 of the Revised Statutes, thereby changing existing law. The Chair must, therefore, hold that the proviso is in violation of the rule of the House prohibiting any change of law upon a general appropriation bill. The point of order is sustained.

1393. A paragraph in an appropriation bill reenacting a provision of existing law properly limiting an appropriation previously made for the same purpose is not subject to a point of order; therefore germane amendments to such paragraphs which do not propose additional legislation are in order.

On May 6, 1920,[3] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When the paragraph providing for the Federal Board for Vocational Education was reached Mr. Simeon D. Fess, of Ohio, offered an amendment providing that the salary limitation of the current fiscal year should apply to appropriations made by the pending bill.

Mr. Thomas L. Blanton, of Texas, made the point of order that the amendment proposed new legislation.

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[1] Second session Sixty-first Congress, Record, p. 2135.

[2] Marlin E. Olmsted, of Pennsylvania, Chairman.

[3] Second session Sixty-sixth Congress, Record, p. 6657.

The Chairman [1] held:

The language in the bill to which the gentleman proposes his amendment is as follows:

"That the salary limitations placed upon the appropriation for vocational rehabilitation by the sundry civil appropriation act approved July 19, 1919, shall apply to the appropriation herein made."

The effect of that language is to reinsert in this bill the language in the sundry civil appropriation bill to which it refers. The amendment of the gentleman from Ohio is in exactly the same language as the limitation carried in the sundry civil appropriation bill of last year, with the exception that the amendment of the gentleman from Ohio increases the salaries beyond the amounts carried by the limitation place in the bill last year. The Chair thinks that if the language of the original limitation was in order4 as a limitation on the sundry civil bill last year, and if the language which is not carried in the bill is in order, as the Chair believes it is in order as a limitation, it is in order to amend the limitations in the way proposed by the gentleman from Ohio, as the amendment of the gentleman from Ohio does not change existing law, and the Chair, therefore, overrules the point of order.

1394. In proposing reenactment of an existing law the slightest deviation is out of order.

On January 19, 1923,[2] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A point of order raised by Mr. Tom Connolly, of Texas, was pending against an amendment offered by Mr. William H. Stafford, of Wisconsin, purporting to reenact existing law.

The Chairman [3] said:

When the committee rose yesterday there was pending a point of order to an amendment offered by the gentleman from Wisconsin. The Chair is now ready to rule.

It is a well-settled interpretation of the rule that Congress may appropriate for one object authorized by law and refuse to appropriate for another object equally authorized by law. If the amendment in this case simply provided that a certain part of the appropriation might be used for the purchase of certain goods described, and might not be used for certain other good described, there would be no question. But it seems to the Chair, upon a more careful examination than he was able to make yesterday, that this amendment goes further. The amendment is not in the form of a limitation, and therefore it is necessary for the Chair to turn the amendment into a limitation in form in order to determine whether it conforms to the rule. Upon doing this the Chair is unable to bring the amendment within what he believes to be a proper interpretation of the rule.

Does it change the power, authority, or discretion of the Executive? If this amendment be adopted, will he have greater discretion, power, or authority than he had before, or will he have less? In either case it would be repugnant to the rule.

The gentleman from Virginia, Mr. Moore, read into the Record yesterday a statement of the law to which the Chair desires to refer. At the time the gentleman read it, it did not occur to the Chair as meeting the situation, but the Chair has changed his mind. The gentleman from Virginia read the law as it now exists, and the Chair will repeat a part of it:

"Hereafter, except in cases of emergency, or where it is impracticable to secure competition the purpose of all supples for the use of the various departments and posts of the Army and of the branches of the Army service shall only be made after advertisement, and shall be purchased where the same can be purchased the cheapest, quality and cost of transportation and the interests of the Government considered."

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[1] Sydney Anderson, of Minnesota, Chairman.

[2] Fourth session Sixty-seventh Congress, Record, p. 2013.

[3] John Q. Tilson, of Connecticut, Chairman.

The proposed amendment is as follows:

"All material purchased under the provisions of this act shall be of American manufacture, except in cases when in the judgment of the Secretary of Was it is to the manifest interest of the United States to make purchases abroad."

Does the proposed amendment mean exactly the same as the law just read by the Chair? In the opinion of the Chair, while in a very general way it accomplishes the same thing, there is a shade of difference which the Chair thinks he ought to recognize. The Chair, therefore, sustains the point of order.

1395. A provision construing or interpreting existing law is legislation and is not in order on an appropriation bill.

On March 13, 1918,[1] the executive, legislative, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Meyer London, of New York, offered this amendment:

To investigate the subject of insurance against unemployment, the sum of $50,000.

Mr. Joseph W. Byrns, of Tennessee, having raised a question of order, the Chairman[2] decided:

Upon reflection the Chair is disposed to think that the organic act might be fairly construed by the Bureau of Labor to empower it to investigate the subject proposed in the amendment, if a lump-sum appropriation was made. But this would be a conclusion that the bureau would draw from the general terms used in the act. This amendment appropriating the sum indicated and directing that it shall be used for the investigation mentioned is an interpretation of the organic act. An amendment constructing or interpreting an act is legislation. Legislation on an appropriation bill is forbidden. The point of order is sustained.

1396 The term "hereafter," as applied to the provisions of an appropriation bill, was held to enact permanent law.

On March 1, 1912,[3] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read a paragraph providing for personnel of the Department of Agriculture, including a solicitor.

Mr. Frank Clark, of Florida, made the point of order that an appropriation for a solicitor was not authorized.

The Chairman[4] ruled.

The point of order is made by the gentleman from Florida against the language in line 2 of page 2 of the bill—

"Solicitor, $5,000."

It is contended by the gentlemen from Florida that the employment of the solicitor is not authorized by existing law. Reference has been made to sections 169 and 523 of the Revised Statutes, giving general authority to the heads of the departments, and to the Commissioner or Secretary of Agriculture, by name, to employ persons in his department.

It is contended that this general language, while sufficient to authorize the appropriation for clerks and other employees in general appropriation bills, is not sufficient to authorize the employment of an officer of the dignity of solicitor.

It has several times been held that these two sections are sufficient authority of law for the making of appropriations in general appropriation bills for the number and salary of clerks and other employees of the departments.

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[1] Second session Sixty-fifth Congress, Record, p. 3456.

[2] Edward W. Saunders, of Virginia, Chairman.

[3] Second session Sixty-second Congress, Record, p. 2676.

[4] William P. Borland, of Missouri, Chairman.

In the opinion of the Chair a sound construction of such language would necessarily limit it to employees ejusdem generis with those named or indicated, and that it might not be extended by construction to the employment of officers of a grade or character not falling fairly within the general designation. It would scarcely be a sound construction that would permit an executive officer to reorganize his department under such general rules. If the employment of the solicitor rested upon these two sections the matter might not be free from doubt. But the employment of the solicitor by name rests also upon the appropriation law of 1910, in which the existence of such an officer is specifically recognized and a portion of his duties defined. The Chair finds that it has been held repeatedly that it is possible in appropriation bills to make permanent provisions of law by appropriate words extending the operation of the provision beyond the time provided by the particular appropriation bill, and the appropriate word used is the word "hereafter."

In section 3930 of Hinds' Precedents the gentleman from Illinois, Mr. James R. Mann, made a point of order against a provision in the agricultural appropriation bill, using the words:

"That hereafter, for the purpose of preventing the use"—

And so forth. And in the argument of the gentleman from Illinois, which was the basis of the decision of the Chair, he referred to a decision of the Comptroller of the Treasury, in which it was said:

"Usually the word 'hereafter,' when used in a proviso in such act, indicates an intention to extend the application of the proviso to future appropriations."

The opinion further stated that the word "hereafter" was not the only word appropriate to that purpose, and if the word "hereafter" were not used, the purpose might be gathered otherwise, from the general language of the appropriation bill, but that the use of the word "hereafter" would prima facie have the effect of turning a provision of an appropriation bill into permanent legislation.

In the opinion of the Chair, therefore, the language employed in the agricultural bill of 1910, using the word "hereafter," is sufficient to warrant a permanent creation of the office of solicitor of the Agricultural Department until by appropriate act of general legislation Congress shall reverse that enactment. Therefore the point of order is overruled.

1397. An amendment inserting the word "hereafter," was held to propose permanent law and as such to be forbidden in an appropriation bill.

A special order having been agreed to providing for consideration of a paragraph proposing legislation on an appropriation bill, germane amendments were held in order but amendments proposing additional legislation were not admitted.

On March 14, 1918,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and a paragraph providing for salaries of employees for the fiscal year 1919, otherwise out of order, was being considered under a special order[2] of the House.

Mr. Martin B. Madden, of Illinois, proposed an amendment inserting the word "hereafter."

Mr. Joseph W. Byrns, of Tennessee, having submitted a point of order on this amendment, the Chairman[3] ruled:

This matter stands as follows: The committee might have reported the amendment now under consideration, as a part of the legislative bill. In that event this matter would have been subject to a point of order, and once made, the point of order would have been sustained, and the offending matter stricken from the bill. But suppose this point of order had not been made.

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[1] Second session Sixty-fifth Congress, Record, p. 3515.

[2] Second session Sixty-fifth Congress, H. Res. 274.

[3] Edward W. Saunders, of Virginia, Chairman.

Then the paragraph would have remained in the bill, subject to amendment under the rules. One of these rules is that when offending matter is allowed to remain in a bill, it is then in order to perfect that matter, by appropriate, germane amendments. But that rule does not mean, and should never be held to mean that the presence of illegal matter in a paragraph of an appropriation bill, thereby makes in order any amendment to the paragraph, however much that amendment may increase the original illegality or however far it falls short of being a perfecting amendment. On the contrary, the rule is well established, that while it is in order to amend a paragraph and perfect the otherwise illegal matter by germane amendments, these amendments must not add new and additional illegalities.

What does this amendment propose to do? Not to perfect the matter contained in the committee amendment, but to add a new element of illegality. It would be in order for the gentleman to move to strike out the paragraph. It would also be in order for him to move to increase the amounts proposed to be paid to the clerks. The precise respect in which this amendment would be out of order, if the rule had not made it in order, is that for the duration of this appropriation bill it proposes to increase the compensation of certain indicated clerks, beyond the limits fixed by law. It would be entirely in order to deal with that particular illegality, by the amendment to increase or diminish the amounts proposed to be paid, or by a motion to strike out the paragraph or by some other germane amendment, but that is not what the amendment of the gentleman from Illinois undertakes to do. It proposes to make this increase, permanent law, thereby adding a new and large element of illegality to the paragraph. This addition of a new element of illegality in the way of legislation, can not be fairly construed as a germane, perfecting amendment of the paragraph.

For the reasons given the Chair is clearly of the opinion that the amendment is out of order. The point of order is sustained.

1398. On December 19, 1922,[1] Mr. Martin B. Madden, of Illinois, called up the conference report on the Treasury Department appropriation bill. The report having been agreed to, Mr. Madden moved that the House recede and concur in amendment numbered 1, still in disagreement, with an amendment inserting the word "hereafter."

Mr. Cassius C. Dowell, of Iowa, reserved a point of order on the amendment, contending that the insertion of the word made the provisions permanent law.

The Speaker[2] sustained the point of order and said:

It seems to the Chair that either the language is surplusage or it does make it permanent law.

1399. Provision that an appropriation remain available until expended constitutes legislation and is not in order on a general appropriation bill.

On April 16, 1908,[3] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph was reached making appropriation for the purchase of submarine boats and providing that it should "remain available until expended."

Mr. Ebenezer J. Hill, of Connecticut, made a point of order on the paragraph.

The Chairman[4] decided:

This item contains an addition to the authorization, and in addition to the appropriation this provision among others, which may also be subject to points of order, "and to remain available until expended." That is legislation which under the rules would change existing law, requiring that these surplus funds be covered into the Treasury at the end of a certain length of time. The Chair, as the paragraph now stands, is constrained to sustain the point of order.

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[1] Fourth session Sixty-seventh Congress, Record, p. 697.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixtieth Congress, Record, p. 4818.

[4] James R. Mann, of Illinois, Chairman.

1400. On February 15, 1919,[1] the Army appropriation bill was under consideration of the Committee of the Whole House on the state of the Union, when a paragraph was read establishing rifle ranges for civilian instruction and providing that the appropriation for that purpose should "remain available until expended."

Mr. Joseph Walsh, of Massachusetts, made the point of order that this provision constituted legislation.

The Chairman[2] sustained the point of order.

1401. Under the statute exempting appropriations for rivers and harbors from the operation of the law requiring unexpended balances to be covered into the Treasury, a provision that an appropriation for flood control should remain available until expended was held to be in order.

On February 24, 1919,[3] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Flood control: For prosecuting work of flood control in accordance with the provisions of the flood-control act approved March 1, 1917, as follows:

Mississippi River, $6,670,000, to remain available until expended.

Mr. Joseph Walsh, of Massachusetts, raised a question of order on the provision that the appropriation should remain available until expended.

The Chairman[4] said:

The point of order is made to the following paragraph:

"Flood control: For prosecuting work of flood control in accordance with the provisions of the flood-control act approved March 1, 1917, as follows:

"'Mississippi River, $5,670,000, to remain available until expended.'"

The act of 1874 is as follows:

"That from and after the 1st day of July, 1874, and of each year thereafter, the Secretary of the Treasury shall cause all unexpended balances of appropriations which shall have remained upon the books of the Treasury for two fiscal years to be carried to the surplus fund and covered into the Treasury: *Provided, That this provision shall not apply to permanent specific appropriations, appropriations for rivers and harbors,* lighthouse, fortifications, public buildings, or the pay of the Navy and Marine Corps; *but the appropriations named in this proviso shall continue available until otherwise ordered by Congress."*

It is contended that insamuch as Congress has seen fit to create a separate committee, known as the Flood Control Committee, and given that committee jurisdiction of all appropriations for the control of floor waters, that the exception in favor of appropriations for rivers and harbors contained in the proviso of the act of 1874 only goes to appropriations made by the Rivers and Harbors Committee and not to appropriations within the jurisdiction of the Flood Control Committee.

In order to determine this question it is necessary to analyze the purpose that Congress had in enacting the statute of 1874. It is evident that Congress at that time realized that there are certain classes of public work that can be prosecuted more economically by continuous work, and that in the very nature of things the work must be uninterrupted, and for that reason it covered the appropriations for that class of work by the proviso in the act of 1874, which provided that appropriations made for that class of public work shall continue available until otherwise ordered by Congress.

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[1] Third session Sixty-fifth Congress, Record, p. 3494.

[2] Edward W. Saunders, of Virginia, Chairman.

[3] Third session Sixty-fifth Congress, Record, p. 4193.

[4] Otis Wingo, of Arkansas, Chairman.

This proviso does not undertake to say that appropriations of a *certain character* for rivers and harbors shall continue available, but it specifically provides for "appropriations for rivers." This language covers all appropriations for rivers of *whatever character* and proposed by *any committee* of Congress. The test is not what committee reports the appropriation; but is the appropriation for rivers? If the appropriation is for rivers or for a river, then the proviso of the act of 1874 covers the appropriation regardless of whether it is reported by the Rivers and Harbors Committee, by the Flood Control Committee, or by any other committee to which the Congress by its rules and for its own convenience and for the purpose of intelligent consideration may have assigned jurisdiction.

The act of March, 1917, under which the pending item is provided for, specifically provides for a continuing work on the Mississippi River, with a limit of $45,000,000 with a proviso that not more than $10,000,000 of the total shall be expended in any one year. This appropriation is certainly an "appropriation for rivers," and is further an appropriation for a project of the class that was evidently in the mind of Congress when it enacted the act of 1874, and therefore falls clearly within that class of appropriations which by the proviso of that act shall continue available.

For these reasons the Chair overrules the point of order.

1402. A provision extending the operation of a statute beyond a limit of time provided by law is legislation and is subject to a point of order.

On February 21, 1910,[1] the Indian appropriation bill was under consideration in the Committee in the Whole House on the state of the Union. Mr. John A. Martin, of Colorado, proposed the following amendment:

For the support and education of 200 Indian pupils at the Indian school at Fort Lewis, Colo., $35,000, and for pay of superintendent, $1,600: *Provided,* That if said school is disposed of as authorized by the Indian appropriation act for the fiscal year ending June 30, 1910, approved March 3, 1909, the provisions of which act with reference to said school are hereby extended to July 1, 1911, only the pro data share of the appropriation therefor for the portion of the year which the school is maintained by the United States shall be available.

Mr. Charles H. Burke, of South Dakota, made a point of order against the amendment on the ground that it proposed to change existing law by extending by one year the time within which the state of Colorado might accept the grant referred to.

The Chairman[2] decided:

If the statement made by the gentleman from South Dakota can not be controverted or explained, it would appear that the amendment does change existing law by changing the time in which the State of Colorado was permitted certain things, and the Chair sustains the point of order.

1403. A proposition to repeal law is legislation and is not in order in an appropriation bill.

On January 23, 1912,[3] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, The following paragraph was read:

That all laws and parts of laws to extend that they are inconsistent with this act are repealed.

Mr. James R. Mann, of Illinois, raised a question of order on the paragraph, submitting that it was legislation on an appropriation bill.

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[1] Second session Sixty-first Congress, Record, p. 2199.

[2] Sylvester C. Smith, of California, Chairman.

[3] Second session Sixty-second Congress, Record, p. 1235.

The Chairman [1] sustained the point of order.

1404. On February 10, 1919,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

The provision in the act entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1919, and for other purposes," approved July 1, 1918, under the increase of the Navy, which reads as follows: "but not later than June 30, 1919," is hereby repealed.

Mr. James R. Mann, of Illinois, made the point of order that the paragraph was a repeal of law and constituted legislation.

The point of order being conceded, was sustained by the Chairman.[2]

1405. A paragraph which proposes legislation in a general appropriation bill, being permitted to remain, may be perfected by a germane amendment.

On April 16, 1908,[3] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. To a pending amendment proposed by Mr. J. Van Vechten Olcott, of New York, providing for the construction of submarine torpedo boats, Mr. Robert W. Bonynge, of Colorado, offered as a substitute an amendment with a proviso specifying the type of boats to be constructed.

Mr. William H. Stafford, of Wisconsin, raised a question of order on the amendment.

The Chairman [4] decided:

The Chair is inclined to think that the Chair made an error in ruling that portion of the original proviso in order, because that of itself is legislation. There can be no question that the amendment offered by way of substitute is legislation. But, being offered as an amendment to an amendment already ruled in order, covering the same question, the Chair feels constrained to hold the amendment offered by the gentleman from Colorado to be in order.

1406. A law fixing amount of salary is not repealed by a provision in an appropriation bill that amounts therein appropriated shall be "in full compensation for services for the fiscal year."

On July 16, 1909,[5] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

For balance of salary of the Treasurer of the United States as provided by law, from March 4, 1909, to June 30, 1910, both dates inclusive, for the fiscal years as follows:

For the fiscal year 1909, $650.

For the fiscal year 1910, $2,000.

Mr. John J. Fitzgerald, of New York, raising a question of order, said:

Mr. Chairman, I make the point of order that this is a change of existing law. I understand the situation to be this, that the salary of the Treasurer of the United States has been $6,000, and for the fiscal year 1909, $6,000 was appropriated. For the fiscal year 1910, $6,000 was

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[1] Finis J. Garrett, of Tennessee, Chairman.

[2] Third session Sixty-fifth Congress, Record, p. 3088.

[3] First session Sixtieth Congress, Record, p. 4818.

[4] James R. Mann, of Illinois, Chairman.

[5] First session Sixty-first Congress, Record, p. 4504.

appropriated. On the 4th of March in a bill raising the salaries of customs inspectors and employees a provision was inserted raising the salary of the Treasurer of the United States to $8,000. Of course, that does not affect the situation here. Many salaries are fixed at a certain amount which Congress does not appropriate. If we are to initiate the practice now of bringing in items as deficiencies to make good the difference between the amount appropriated and the amount fixed by law, there will be no end of deficiencies for this purpose. In the legislative act for the fiscal year ending June 30, 1910, which goes into effect on the 1st of July, 1909, appropriation of the $6,000 for salary is in full compensation for all services rendered by any official appropriated for.

The Chairman [1] held:

The legislative, executive, and judicial appropriation act for the fiscal year ending June 30, 1909, contained a provision that the following sums be, and the same are hereby, appropriated, and so forth, in full compensation for the services for the fiscal year ending June 30, 1909, and fixed $6,000 for the Treasurer of the United States. That act was approved in 1908. March 4, 1909, an act was passed fixing the compensation of the Treasurer of the United States at $8,000 per annum, and repealing all laws or parts of laws inconsistent with this provision. It seems clear to the present occupant of the chair that the provisions of this act changed the provisions of the act making appropriations for the fiscal year ending June 30, 1909, and that the Treasurer of the United States would clearly be entitled to receive the difference in the rate of compensation for the period between March 4, 1909, and the end of the fiscal year.

Now, the legislative, executive, and judicial appropriation act for the current fiscal year contained the same provision about the amount appropriated being in full compensation for services for the fiscal year, and this act was approved on the same day as the act changing the salary of the Treasurer of the United States.

If the provision of the legislative, executive, and judicial appropriation bill changes the law as to the salary of the Treasurer of the United States, it would seem to the present occupant of the chair that there could be no presumption in favor of the official; but it has been repeatedly declared, and in a case laid before the present occupant of the chair, decided by Hon. Sereno E. Payne in the first session of the Fifty-fourth Congress (pp. 2009–2019), quoted on page 450 of volume 4 of Hinds' Precedents, it is stated that the words "in full compensation for services for the fiscal year" do not change the law, but if the official concludes not to accept the salary appropriated he has the legal right to go into the Court of Claims and recover the full amount of the salary which the law specifies.

Section 5 of the legislative act, repealing all laws or parts of law inconsistent with this provision, seems to the present occupant of the chair not to be held to repeal the provisions of Public Act No. 343, fixing the salary of the Treasurer of the United States. It relates to appropriations, and not to fixing the salaries; and if, while the current fiscal year run along, the Treasurer drew his salary under the provisions of that legislation, he would be barred from going into the Court of Claims to recover any balance of salary; yet it does not seem as if the provisions of the act of March 4, 1909, so far as anything appears to the committee, have been in anywise affected, and the Chair overrules the point of order and holds that the appropriation is in order.

1407. The appropriation of funds held in trust in the Federal treasury is legislation and is not in order on a general appropriation bill.[2]

On April 5, 1912,[3] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

The Secretary of the Interior is hereby authorized to withdraw from the Treasury of the United States, at his discretion, the sum of $25,000, or so much thereof as may be necessary, of the

[1] Irving P. Wanger, of Pennsylvania, Chairman.

[2] Such provision in a bill reported by a legislative committee is also held subject to a point of order. See decision by Chairman Horace M. Towner, Feb. 3, 1923, fourth session Sixty-seventh Congress, Record, p. 2988.

[3] Second session Sixty-second Congress, Record, p. 4362.

funds on deposit to the credit of the Kiowa, Comanche, and Apache Tribes of Indians in Oklahoma, for the support of the agency and pay of employees maintained for their benefit, and he is hereby authorized to withdraw from the Treasury the further sum of $40,000, or so much thereof as may be necessary, of the funds on deposit to the credit of the Kiowa, Comanche, and Apache Tribes of Indians in Oklahoma, for the construction and equipment of an Indian hospital upon the Fort Sill Indian School Reservation in Oklahoma, to be used only for the benefit of Indians belonging to said tribes; in all, $65,000

Mr. James R. Mann, if Illinois, having reserved a point of order on the paragraph, Mr. Scott Ferris, of Oklahoma, called attention to the provisions of the following statute:[1]

Provided, That the money arising from the sale of said lands shall be paid into the Treasury of the United States and placed to the credit of said tribe of Indians, and said deposit of money shall draw 4 per cent interest per annum, and the principal and interest of said deposit shall be expended for the benefit of said Indians in such manner as Congress may direct.

The Chairman[2] concluded:

The citation by the gentleman from Oklahoma of the statute which he says authorizes this action by the committee seems to the Chair to provide that the funds of these Indians derived from the sale of lands shall be placed in the National Treasury to their credit and draw a specified interest. But it occurs to the Chair that after these funds are placed there by statutory enactment it would certainly require legislation of some sort to take these funds out and disburse them, and therefore require new legislation of some sort to take these funds out and disburse them, and therefore require new legislation. The Chair is inclined to hold that the point of order by the gentleman from Illinois is well taken, and does so hold.

1408. An amendment increasing the total amount appropriated by a paragraph without increasing constituent items in the paragraph to correspond thereto was held not to be in order.

On April 14, 1914,[3] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the following paragraph was reached:

Children's Bureau: Chief, $5,000; assistant chief, $2,400; statistical expert, $2,000; private secretary to chief of bureau, $1,500; clerks—2 of class 4, 2 of class 3, 1 of class 2, 1 of class 1, 1, $1,000; special agents—1, $1,400; 1, $1,200; copyist; messenger; in all, $25,640.

Mr. William F. Murray, of Massachusetts, offered the following amendment:

Strike out "$25,640" and insert "$50,640."

Mr. Joseph T. Johnson, of South Carolina, having raised a question of order on the amendment, the Chairman[4] held:

May the Chair call the gentleman's attention to this fact: This appropriation carries a total of $25,640, and the gentleman from Massachusetts does not propose to increase any item, but simply proposes to increase the total. What would be the difference if you had $125,000 or $25,000? The Chair can see no logic in an amendment of that kind and can not find any precedent authorizing an amendment of that kind. The Chair believes it to be good practice to have the total amount agree with the items, and he is going to sustain the point of order.

The gentleman from Massachusetts offers an amendment to increase the total to $50,640; he offers no amendment to increase the items in the paragraph. The Chair sustains the point of order. Now, if the gentleman from Massachusetts offers an amendment which increases the various items, then an amendment increasing the total will be in order.

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[1] Revised Statutes, p. 213.

[2] Henry A. Barnhart, of Indiana, Chairman.

[3] Second session Sixty-third Congress, Record, p. 6709.

[4] John N. Garner, of Texas, Chairman.

1409 A paragraph in an appropriation bill reenacting verbatim an existing law is not subject to a point of order.

In passing upon a point of order it is not within the province of the Chair to consider contingencies which might subsequently affect the question presented.

On January 31, 1918,[1] the Agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Asbury F. Lever, of South Carolina, offered this amendment:

Insert as a new paragraph the following:

"For enabling the Secretary of Agriculture to investigate and certify to shippers the conditions as to soundness of fruit, vegetables, and other food products, when received at such important central markets as the Secretary of agriculture may from time to time designate and under such rules and regulations as he may prescribe: *Provided,* That certificates issued by authorized agents of the department shall be received in all courts as prima facie evidence of the truth of the statements therein contained."

Mr. William H. Stafford, of Wisconsin, submitted a point of order to the effect that the amendment was legislation and not authorized by existing law.

In reply, Mr. Lever said:

Mr. Chairman, in answer to the suggestion of the gentleman that this is not authorized by existing law, I desire to call the Chair's attention to the act of Congress known as the food survey law and food control law, on page 2, and I quote to the Chair the following language from section 8. It says:

"For enabling the Secretary of Agriculture to investigate and certify to shippers the condition as to soundness of fruits, vegetables, and other food products, when received at such important central markets as the Secretary of Agriculture may from time to time designate and under such rules and regulations as he may prescribe: *Provided,* That certificates issued by the authorized agents of the departments shall be received in all courts as prima facie evidence of the truth of the statements therein contained."

And then the amount of money is stated. In the amendment I have offered we put in the amount. The Chair will recognize the language, just read, I think, that it is the law and will continue to be the law so long as this war lasts, the identical language of the amendment which I have sent to the desk.

Mr. Stafford argued:

Mr. Chairman, the chairman of the committee admits that the authority on which he bases this amendment is limited to the contingency as found in the enabling act, the food survey law and the food control law, to the duration of the war. The duration of the war is a contingency that may end at any moment.

The amendment that is offered by the chairman of the committee is not limited, as the original act is to the duration of the war. The war may end during this present fiscal year, and if this bill was presented to the House after the war is concluded, under the rules now existing it would be subject to a point of order. Allow this amendment to be held in order in its present phraseology, and if the war comes to an end prior to the consideration of the Agricultural appropriation bill at the next session of Congress, the fact that we have undertaken this work without any such limitation as the existing law provides would make a similar provision in order. But if this authorization is limited to the existence of the war, that would present a different question. The law as it stands today only authorizes the Secretary of Agriculture to undertake this work during the existence of the war. As soon as the war terminates the authority lapses. But if the amendment is agreed to and the war terminates, he would have authority to still continue it, and under what authorization?

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[1] Second session Sixty-fifth Congress, Record, p. 1566.

The Chairman [1] ruled:

The gentleman from South Carolina offers an amendment against which the gentleman from Wisconsin lodges a point of order, claiming that it is new legislation, and that therefore it is not in order on a general appropriation bill.

Under clause 2 of Rule XXI, no amendment changing existing law shall be in order upon an appropriation bill. Therefore, the question presents itself to the Chair as to whether or not the proposed amendment is new legislation. Under the act "To provide further for the national security and defense by stimulating agriculture and facilitating the distribution of agricultural products," approved August 10, 1917, there is a provision of law identical with the amendment proposed by the gentleman from South Carolina.

The gentleman from Wisconsin contends that the act of Congress that the Chair has just cited lasts only during the continuance of the war, which is an uncertain contingency, and that the Chair would not be authorized to hold the amendment is in accordance with existing law. The Chair is of the opinion that the only matter for the Chair to decide is whether the law is in existence at the time the Chair is to pass upon the amendment authorizing it, for any law may be subsequently repealed. Section 3814 of Hinds' Precedents, volume 4, provides:

"A paragraph in an appropriation bill reenacting verbatim an existing law is not subject to a point of order."

The Chair is of the opinion that there is law authorizing the legislation proposed in the amendment and that the amendment simply proposes an appropriation to carry out existing law, and therefore the Chair overrules the point of order.

1410. A statute appropriating annually a sum for a stated purpose without limitation upon the amount to be so appropriated in the future is not legislation and a paragraph in an appropriation bill increasing the amount, was held not to change existing law.

On January 31, 1919,[2] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

For cooperative agricultural extension work, to be allotted, paid, and expended in the same manner, upon the same terms and conditions, and under the same supervision as the additional appropriations made by the act of May 8, 1914 (33 Stats. L., p. 372), entitled "An act to provide for cooperative agricultural extension work between the agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and of acts supplementary thereto, and the United States Department of Agriculture," $1,500,000; and all sums appropriated by this act for use for demonstration or extension work within any State shall be used and expended in accordance with plans mutually agreed upon by the Secretary of Agriculture and the proper officials of the college in such State which receives the benefits of said act of May 8, 1914.

Mr. William H. Stafford, of Wisconsin, made the point of order that the paragraph proposed new legislation and said:

Mr. Chairman, on the face of the bill it shows that it is a modification of existing law, namely, the Smith-Lever Act. It seeks to increase the amount of appropriations provided in the Smith-Lever Act, which carries a definite amount of appropriation each year which could be used by the National Government in cooperation with State organizations. As far as that law is concerned certainly it is a change of existing law. Read the paragraph:

"For cooperative agricultural extension work, to be allotted, paid, and expended in the same manner, upon the same terms and conditions, and under the same supervision, as the additional appropriations made by the act of May 8, 1914."

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[1] Charles R. Crisp, of Georgia, Chairman.

[2] Third session Sixty-fifth Congress, Record, p. 2451.

It describes that act. It is admitted by the chairman of the committee that this money is in addition to the permanent amount appropriated by the Smith-Lever Act referred to in this paragraph.

Mr. James R. Mann, of Illinois, suggested:

On the contrary, does not the Smith-Lever Act appropriate, itself, so much money each year without any limit of the amount which Congress may appropriate? If I remember the Smith-Lever Act, and I am sure the gentleman's recollection will be correct, the Smith-Lever Act is not an authorization of an appropriation at all. In itself it appropriates so much money each year. It is not an authorization of an appropriation and Congress does not appropriate each year the money. It at one time appropriated for the future, each year, without any limitation on what the Congress may appropriate, and without any authorization whatever as to the amount appropriated.

The Chairman [1] ruled:

The Chair feels that the point of order raised by the gentleman from Wisconsin would turn very largely upon the wording of the Smith-Lever Act. If it should be thought to be on a par with an authorization of a limit of cost on a public building, the point of order would be well taken if an attempt were made to increase the amount of the limit. But the Chair, without looking at the Smith-Lever Act at the present time, is under the impression that that law simply permanently appropriated a certain amount to be available annually, but in no respect prohibited Congress from increasing the amount if they deemed it necessary. The recollection of the Chair is, briefly stated, that that bill assured the different States cooperating with the Federal Government that there will be available a certain sum of money from the Federal Government each year, but does not undertake to say that Congress may not from time to time increase that amount. The Chair therefore overrules the point of order.

1411. An amendment striking from a paragraph a provision for the observance of an existing statute was held not to involve a change of law.

On January 21, 1924,[2] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A point of order made by Mr. Thomas L. Blanton, of Texas, was pending on the following amendment offered by Mr. Charles I. Stengle, of New York, to a paragraph of the bill providing salaries for the office of the Secretary of the Interior:

Strike out "in accordance with the classification act of 1923."

The Chairman [3] decided:

The gentleman from Texas can not be serious when he claims that by striking out a few words in this bill it changes existing law. The mere fact of striking out a reference to a law does not change the law in any respect. The Chair overrules the point of order.

1412. An amendment authorizing payment of telegraph tolls from the contingent fund was held to constitute legislation.

On May 24, 1912,[4] on motion of Mr. John J. Fitzgerald, of New York, by unanimous consent, the joint resolution (H. J. Res 319) making appropriations to supply deficiencies in the contingent expenses of the House of Representatives for the current fiscal year, was considered in the House as in the Committee of the Whole House on the state of the Union.

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[1] Courtney W. Hamlin, of Missouri, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 1231.

[3] John Q. Tilson, of Connecticut, Chairman.

[4] Second session Sixty-second Congress, Journal, p. 1047; Record, p. 7104.

Mr. Fitzgerald offered the following amendment:

For miscellaneous items and expenses of special and select committees, exclusive of salaries and labor, unless specifically ordered by the House of Representatives, $55,000: *Provided,* That no part of this sum shall be expended for telegrams hereafter sent, except such as are sent on official business upon the authority of officers, whips, or committees of the House, and bills therefor shall be payable only on approval by the Committee on Accounts of the House of Representatives.

Mr. James R. Mann, of Illinois, made the point of order that there was no authority of law for the amendment.

The Speaker [1] said:

This proviso on the face of it at the first impression looks as if it was limiting the telegraph privileges, when, in fact, it develops that there is no law authorizing it at all, and the proviso is evidently new law. The amendment is out of order at this time. The effect of this proviso is to create new law. Therefore the point of order of the gentleman from Illinois is well taken.

1413. A paragraph proposing legislation in a general appropriation bill being permitted to remain may be perfected by a germane amendment.

To a proposition governing the making of a contract in a number of particulars an amendment proposing to govern the making of the contract in another particular was held to be germane.

On April 8, 1910,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read a paragraph providing that the contract for certain ships to be constructed for the Navy (1) should be awarded to the lowest bidder; (2) should specify materials prescribed in the act of August 3, 1886; and (3) should provide for completion within reasonable time.

No point of order being presented against the paragraph, Mr. John J. Fitzgerald, of New York, offered the following amendment thereto:

Shall contain a provision requiring said vessels to be built in accordance with the provisions of an act entitled "An act relating to the limitation of hours for daily service of laborers and mechanics employed on public works for the United States and the District of Columbia," approved August 1, 1892, and.

Mr. George E. Foss, of Illinois, made the point of order that the amendment provided new legislation, and was not germane.

The Chairman [3] ruled:

The paragraph in the bill provides that the contract for the construction of said vessels shall be awarded by the Secretary of the Navy to the lowest best responsible bidder, and so forth, and contains various provisions, such as that in the construction of the vessels the provisions of the act of August 3, 1886, shall be enforced, and that all the parts shall be of domestic manufacture, and that the steel material shall be of domestic manufacture, and so forth, and various other provisions affecting the construction of the vessels, and, in a way, affecting the contracts or bids under which the vessels are constructed. The gentleman from New York offers an amendment to make the beginning of the paragraph read as follows:

"And the contract for the construction of said vessels shall contain a provision requiring said vessels to be built in accordance with the provisions of an act entitled 'An act relating to the limitation of the hours of daily service of laborers and mechanics employed upon the public works

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-first Congress, Record, p. 4440.

[3] James R. Mann, of Illinois, Chairman.

of the United States and of the District of Columbia,' approved August 1, 1892, and shall be awarded by the Secretary of the Navy to the lowest best responsible bidder, having in view the best results"—

And so forth.

The original paragraph in the bill was legislation and subject to a point of order. It frequently has been declared that a germane amendment to a paragraph which was subject to a point of order is in order, although the amendment by itself will be subject to a point of order and legislation; and there have been rulings to the effect that new and substantive propositions were not in order. The Chair thinks that the amendment offered by the gentleman from New York is similar to the other provisions of the paragraph in the bill, so far as principle and form are concerned. The Chair therefore overrules the point of order.

1414. A paragraph proposing legislation, being permitted to remain, may be perfected by germane amendment.

On May 3, 1912,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Clerk hire, Members and Delegates: To pay each Member, Delegate, and Resident Commissioner, for clerk hire, necessarily employed by him in the discharge of his official and representative duties, $1,500 per annum, in monthly installments, $618,975, or so much thereof as may be necessary; and Representatives and Delegates elect to the Congress whose credentials in due form of law have been duly filed with the Clerk of the House of Representatives, in accordance with the provisions of section 31 of the Revised Statutes of the United States, shall be entitled to payment under this appropriation.

Mr. Joseph G. Cannon, of Illinois, offered the following amendment:

Strike out the figures $1,500 and insert the figures $2,000.

Mr. Joseph T. Johnson, of South Carolina, having reserved a point of order on the paragraph, the Chairman[2] ruled:

The law at present provides that clerk hire for each Member of Congress shall be $1,200. That is the existing law. The committee has reported a paragraph to this bill providing that the clerk hire of Members of Congress shall be $1,500 a year. If a point of order had been made against the paragraph in time the Chair would have held that it was subject to the point of order, because it was contrary to existing law. No point of order having been made against the paragraph, it comes before this House in the condition that a new amendment would come before the House that was offered that was subject to the point of order, and the point of order not having been made, it would be in order to offer a germane amendment. Now, in Hinds' Precedents, volume 4, paragraph 3823, the same proposition was before the House, and the Chair will ask the Clerk to read the paragraph.

The Clerk read as follows:

"A paragraph which proposes legislation in a general appropriation bill being permitted to remain, it may be perfected by a germane amendment.'"

Now, the proposition pending before the House is in the same position as if it were offered as an independent amendment that was subject to the point of order, but the point of order not being made, it is open to a germane amendment. The Chair for that reason overrules the point of order.

1415. A legislative provision in an appropriation bill, being permitted to remain, may be perfected by a germane amendment.

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[1] Second session Sixty-second Congress, Record, p. 5847.

[2] Oscar W. Underwood, of Alabama, Chairman.

To a proposition relating to motor trucks and passenger-carrying automobiles an amendment relating to motor trucks, passenger-carrying automobiles, motor cycles, and trailers was held to be germane.

On May 9, 1921,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read a paragraph providing for transportation of the Army and its supplies, including a provision for the sale of trucks and automobiles.

To this paragraph Mr. Clarence MacGregor, of New York, offered the following amendment:

That the Secretary of War is authorized and directed to sell forthwith at public auction or private sale all motor trucks, passenger-carrying automobiles, motor cycles, and trailers now in the possession of the War Department in excess of the requirements of an army of the strength provided for in this act, any provision of law to the contrary notwithstanding.

Mr. Daniel R. Anthony, jr., of Kansas, made the point of order that the amendment was not germane and changed existing law.

The Chairman[2] held:

The pending Army appropriation bill contains a paragraph beginning on line 12 of page 33 which is clearly legislation, but to which the point of order was not made. Therefore, for the purpose of deciding this point of order, we may consider this paragraph as it stands as a bill being considered by the House. The paragraph provides—

"That the Secretary of War is authorized and directed to sell, or to dispose of by transfer to the Department of Agriculture under existing laws, for its own use and the use of the several States in road work and maintenance of roads, not less than one-half by sale, so many motor trucks and passenger-carrying automobiles as will, in addition to such trucks and automobiles as have been sold or transferred since January 1, 1921, aggregate during the first six months of the calendar year 10,000 motor trucks and 2,000 passenger-carrying automobiles."

To this the gentleman from New York offers an amendment providing that the Secretary of War is authorized and directed to sell forthwith at public auction or private sale, all motor trucks, passenger-carrying automobiles, motor cycles, and trailers now in the possession of the War Department, and so on. Against this amendment a point of order is made upon the ground that is not germane to the original paragraph.

What is the subject of the original paragraph? To dispose of automotive vehicles, enumerating motor trucks and passenger automobiles; to dispose of them, first by sale, and second, by transfer to the Department of Agriculture. It is clear that if the committee wished to do so it could strike out this part of the paragraph, "or by transfer to the Department of Agriculture," so that it would leave only the authority to sell. It is clear that the Committee would have power to change the method of sale, and this the amendment attempts to do.

It is contended, however, that in the language, "motor cycles and trailers," which is different from the language carried in the original paragraph, the scope is so widened as to render the amendment not germane.

Upon an examination of the language it seems that there is only this difference: The original paragraph provided for motor trucks and passenger-carrying automobiles. The proposed amendment carries motor trucks, passenger-carrying automobiles, motor cycles, and trailers. It seems to the Chair that this change is not of such a character as to render the amendment not germane to the original paragraph. Therefore, the Chair overrules the point of order.

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[1] First session Sixty-seventh Congress, Record, p. 1223.

[2] John Q. Tilson, of Connecticut, Chairman.

1416. A paragraph proposing legislation in a general appropriation bill, being permitted to remain, may be perfected by a germane amendment.

On April 15, 1908,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

That, for the purpose of further increasing the naval establishment of the United States, the President is hereby authorized to have constructed, by contract or in navy yards, as hereinafter provided, two first-class battleships to cost, exclusive of armor and armament, not exceeding $6,000,000 each, similar in all essential characteristics to the battleship authorized by the act making appropriations for the naval service for the fiscal year ending June 30, 1908.

Mr. Henry M. Goldfogle, of New York, offered an amendment as follows:

At least one of such battleships shall be built and constructed, under the direction of the Secretary of the Navy, at one of the navy yards; the other of said battleships may also be constructed at one of the navy yards, in the discretion of the Secretary of the Navy, or by contract, as hereinafter provided.

Mr. Martin B. Madden, of Illinois, having raised a question of order on the amendment, the Chairman [2] ruled:

The Chair has not before him the ruling made at the last Congress, although the impression and recollection of the Chair is that the amendment was then offered to a succeeding paragraph in the bill. But the paragraph now before the committee contains the provision that the Secretary of the Navy may build the vessels herein authorized by contract or in such navy yards as he may designate. That provision of itself might be considered legislation, but, if so, any amendment germane to it would be in order. The Chair thinks the amendment offered by the gentleman from New York is germane, and the Chair therefore overrules the point of order.

1417. On February 22, 1910,[3] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read as follows:

The Secretary of the Interior is hereby authorized to withdraw from the Treasury of the United States, at his discretion, the sum of $250,000, or so much thereof as may be necessary, of the funds on deposit to the credit of the Kiowa, Comanche, and Apache tribes of Indians in Oklahoma and pay out the same for the benefit of the members of said tribes, including their maintenance and support and improvement of their homesteads, for the ensuing year in such manner and under such regulations as he may prescribe.

No question of order being raised on the paragraph, Mr. John H. Stephens, of Texas, offered this amendment:

Provided, That said Indians shall not be required to spend said fund in any licensed trader's store, under any red-card regulation or otherwise, but said Indians shall be permitted to purchase the necessary supplies with said fund wherever they may desire, and said money shall be paid to each individual Indian in person.

Mr. Charles H. Burke, of South Dakota, made the point of order that the amendment embodied legislation.

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[1] First session Sixtieth Congress, Record, p. 4807.

[1] James R. Mann, of Illinois, Chairman.

[1] Second session Sixty-first Congress, Record, p. 2212.

The Chairman [1] held:

The amendment proposed does undoubtedly change existing law, and would be out of order if it were offered to a provision which were itself in order. This paragraph to which the amendment is proposed does not make any appropriation. It is itself legislation upon a general appropriation bill in violation of section 2 of Rule XXI, and a point of order against it must have been sustained had it been proposed. But no point of order having been made, the paragraph remains in the bill by unanimous consent. In such cases it has been ruled over and over again, while a new substantive proposition involving legislation upon a different point would not be in order as an amendment to such paragraph, nevertheless an amendment which is germane, which introduces no new substantive matter of legislation, but is germane to the paragraph itself, is in order.

It seems to the Chair that this proviso is germane to the paragraph, and therefore the point of order is overruled.

1418. On January 6, 1923,[2] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When the paragraph providing salaries for the public schools was reached Mr. James T. Begg, of Ohio, offered an amendment increasing the salary of the superintendent of schools from $6,000, as provided in the paragraph to $10,000.

Mr. Louis C. Cramton, of Michigan, raised a point of order against the amendment, which was sustained by the Chairman.[3]

Subsequently the Chairman said:

Before the Clerk proceeds with the reading of the bill, the Chairman desires to make a statement. The Chair rendered a decision a few moments ago upon a point of order on an amendment offered by the gentleman from Ohio which proposed to increase the salary of the superintendent of public schools. The Chair made his ruling based upon what he thought was a statutory provision that the salary was fixed at $6,000 per year. To fortify his opinion the Chair has sent for the law and finds, somewhat to his surprise, that the statutory provision is for $5,000 a year, not $6,000, which completely alters the proposition. The Chair wants to be entirely fair in his ruling. The Chair made his ruling based upon what he thought was a statutory provision, namely, a salary of $6,000. The amount put in the bill was $1,000 above the law, and it would seem to the Chair that that provision of the bill was clearly subject to a point of order if it had been made, but it was not made. In accordance with the procedure, when any provision which is subject to a point of order is allowed to remain, then any germane amendment is in order, which, standing by itself, would have violated the rule. Therefore, if the Chair's position is correct, the amendment of the gentleman from Ohio would have been in order and should not have been ruled out a moment ago, as no point of order was made against the provision in the text of the bill.

1419. February 3, 1927,[4] during consideration of the District of Columbia appropriation bill in the Committee of the Whole House on the state of the Union, the Clerk read:

The children of officers and men of the United States Army, Navy, and Marine Corps and children of other employees of the United States stationed outside the District of Columbia shall be admitted to the public schools without payment of tuition.

Mr. Grant M. Hudson, of Michigan, offered the following amendment:

Provided, That no part of the appropriation made for the public schools for the District of Columbia shall be used for the instruction of pupils who dwell outside of the District of Columbia below the ninth grade.

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[1] Marlin E. Olmsted, of Pennsylvania, Chairman.

[2] Fourth session Sixty-seventh Congress, Record, p. 1374.

[3] Frederick C. Hicks, of New York, Chairman.

[4] Second session Sixty-ninth Congress, Record, p. 2897.

Mr. John Philip Hill, of Maryland, submitted a point of order on the ground that the amendment proposed to change existing law.

The Chairman [1] held:

This amendment is offered to the following paragraph of the bill:

"The children of officers and men of the United States Army, Navy, and Marine Corps, and children of other employees of the United States stationed outside the District of Columbia shall be admitted to the public schools without payment of tuition."

That paragraph, in the opinion of the Chair, would have been subject to a point of order if a point of order had been made against it, because it is clearly legislation upon an appropriation bill, not involving any retrenchment or limitation of expenditures. The rule is that a paragraph subject to a point of order, retaining its place in a bill without having been challenged by a point of order, is subject to germane amendments, and germane amendments are in order even though the original independent proposition might have been subject to a point of order. It seems to the Chair that the language in the paragraph of the text opens up the schools of the district to all children of officers and men of the United States Army, Navy, and Marine Corps, and other employees of the Government stationed outside the District of Columbia in all grades, in all departments of the public schools of the District. The amendment offered by the gentleman from Michigan proceeds to limit that general permission so as to exclude the instruction of pupils below the ninth grade. The limitation provides, substantially, that no part of the appropriations in this bill shall be available for pupils below the ninth grade.

The District of Columbia appropriation act, approved March 3, 1925, contained the following paragraph:

"The children of officers and men of the United States Army and Navy and children of other employees of the United States stationed outside of the District of Columbia shall be admitted to the public schools without payment of tuition."

Similar provisions were contained in District appropriation acts approved March 3, 1917, August 31, 1918, July 11, 1919, and in the urgent deficiency act of March 28, 1918.

The similar provision in this bill extends the privilege so as to include children of officers and men of the Marine Corps and is, therefore, in its entirety, under the precedents, itself legislation and, as already suggested, would have been subject to a point of order, if one had been made. The pending amendment is germane to the paragraph to which it is offered, and, in the opinion of the Chair, is a limitation upon the appropriation in this bill for the purposes stated in the paragraph in question and also upon expenditures under the broader provision contained in the District of Columbia appropriation act approved March 3, 1915, which reads:

"Hereafter all pupils whose parents are employed officially or otherwise in the District of Columbia shall be admitted and taught free of charge in the schools of said District."

The pending amendment is clearly a limitation upon this last broad provision as well as upon the narrower one in this bill permitting parents of children not residing in the District to send their children to the District schools.

As it stands, the text in the bill permits the appropriation to be available for all grades and all departments of the public schools in the District of Columbia to the children therein described, and the gentleman's amendment takes out of the provision in the text all grades below the ninth grade. The Chair therefore overrules the point of order.

1420. A paragraph changing existing law, being permitted to remain by general consent, may be perfected by germane amendments which do not provide additional legislation.

On February 17, 1908,[2] the legislative, executive, and judicial appropriation bill was ordered to be engrossed and was read a third time, when Mr. Gilbert M. Hitchcock, of Nebraska, moved that the bill be recommitted to the Committee on

[1] Carl R. Chindblom, of Illinois, Chairman.

[2] First session Sixtieth Congress, Journal, p. 1069; Record, p. 2103.

Appropriations, with instructions to report it back to the House with an amendment adding to the agenda on which agents, investigating foreign trade conditions, were required to report.

Mr. James A. Tawney, of Minnesota, made the point of order that the amendment was not germane to the bill and proposed expenditures not authorized by law.

The Speaker [1] said:

The gentleman from Nebraska moves to recommit the bill to the Committee on Appropriations with an instruction to report the same back to the House amending that portion of the bill which reads as follows:

"For compensation at no more than $10 per day and actual necessary traveling expenses of special agents to investigate trade conditions abroad, with the object of promoting the foreign commerce of the United States, $35,000; and the results of such investigations shall be reported to Congress"—by adding at the end after the word "Congress" the following: "including information showing the prices at which American-made goods are sold abroad to merchants and at retail."

The Chair has verified his impression that the item as reported in the bill and agreed to by the House dwells in the bill alone, or in other words, it is not authorized by existing law, and if a point of order had been made upon it in Committee of the Whole, or if it had been considered in the House, and the present occupant of the Chair had been called upon to rule upon that point of order, he would have sustained it. The authorities are many and uniform touching the effort to amend upon a motion of this kind.

On page 360 of the Manual, under the title of "change of existing law," the Chair reads as follows:

"A paragraph which changes existing law being allowed by general consent to remain, it may be perfected by any germane amendment. But this does not permit an amendment which adds additional legislation."

This adds, as is patent upon its face, additional legislation, and it seems to the Chair to dispose of the point of order. The Chair listened with interest to the gentleman from Alabama. This is a motion to recommit, which motion—the Chair does not now speak of instructions—is in order notwithstanding the previous question has been ordered which cuts off all amendment. But you can not do indirectly that which you can not do directly. If you could not make the amendment while it was being considered in the committee you can not make the amendment on a motion to recommit. The Chair could rule upon the second point as to whether it is germane or not, but the Chair is admonished from rulings of Speakers in all the past that when you find something that disposes of the point of order there is no use in piling Pelion upon Ossa. Therefore the Chair sustains the point of order.

1421. On May 1, 1908,[2] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, and the following paragraph was pending:

Transportation of fractional silver coin: For transportation of fractional silver coin, by registered mail or otherwise, $60,000; and in expending this sum the Secretary of the Treasury is authorized and directed to transport from the Treasury or subtreasuries, free of charge, fractional silver coin when requested to do so: *Provided,* That an equal amount in coin or currency shall have been deposited in the Treasury or such subtreasuries by the applicant or applicants. And the Secretary of the Treasury shall report to Congress the cost arising under this appropriation.

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] First session Sixtieth Congress, Record, p. 5545.

Mr. J. Warren Keifer, of Ohio, proposed an amendment striking out the word "fractional" wherever occurring in the paragraph, to which amendment Mr. Walter I. Smith, of Iowa, raised a question of order.

The Chairman[1] decided:

The Chair is clearly of the opinion that the motion made by the gentleman from Ohio is subject to a point of order. It does not appear that there is any authorization by law for the paragraph in the bill. The gentleman from Ohio made the statement that the act of 1878 had been construed by somebody as an authorization for that purpose. The Chair has carefully read the act of 1878, and in the opinion of the Chair no such authorization exists. None having been cited by the gentleman from Ohio, or any person in support of the proposition he makes, the Chair is of the opinion that the entire proposition under the head of "transportation of fractional silver coin," page 23, is contrary to law and would have been stricken out had the point of order been made. Therefore the only question that remains to be decided is as to whether or not the proposition of the gentleman from Ohio, being germane to the paragraph, embodies an additional matter of unauthorized expenditure.

This whole subject was decided in a very well-considered decision rendered by the distinguished gentleman from Ohio, Mr. Burton, sitting as Chairman of the Committee of the Whole House on the state of the Union, in the Fifty-seventh Congress. The Chair will not read very much of the decision, but read the final summing up by the gentleman from Ohio, in which he took up and discussed the conflict that theretofore existed on the proposition of germaneness to a proposition which in and of itself was contrary to existing law.

The Chair finally said:

"The Chair, though somewhat doubtful, thinks this the best rule: That if a paragraph has been included in the bill which has in it a taint of illegality or of being contrary to existing law, that paragraph can be corrected or perfected by an amendment; but if the further paragraph which is proposed as an amendment carries a further degree of illegality affecting the whole paragraph as amended, then it is not in order."

The Chair thinks that is the best rule. The Chair also has read the decision quoted by the gentleman from Tennessee, Mr. Gaines, that a paragraph which changes existing law, being allowed by general consent to remain, it may be perfected by any germane amendment; but this does not permit an amendment which adds additional legislation; and that, the Chair thinks, is the better rule.

The Chair also read the other lines read by the gentleman:

"A paragraph of an appropriation bill changing existing law may be perfected by a germane amendment which also changes existing law."

The Chair is of opinion that that is not the rule. It is an earlier decision, and has reference to another matter, into which the Chair has not gone. The Chair thinks it is a bad rule, and that the point of order should be sustained in accordance with the decision made by the gentleman from Pennsylvania, Mr. Dalzell, which is certainly on all fours with the pending proposition, for it is the opinion of the Chair that the amendment now proposed by the gentleman from Ohio is practically the same in effect as the amendment he proposed the other day, on which the gentleman from Pennsylvania made a ruling similar to that now made by the Chair, and the Chair therefore sustains the point of order.

1422. On June 16, 1910,[2] the general deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

International Institute of Agriculture at Rome, Italy: The appropriation of $4,800 provided in the act making appropriations for the Diplomatic and Consular Service for the fiscal year 1911, for the payment of the quota of the United States for the support of the International Institute of Agriculture for the calendar year 1910, is hereby extended and made available for the calendar year 1911.

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[1] James E. Watson, of Indiana, Chairman.

[2] Second session Sixty-first Congress, Record, p. 8358.

Mr. David J. Foster, of Vermont, offered the following amendment:

For compensation to one member of the permanent committee, and for the payment of actual and necessary expenses of delegates to the general assembly of the International Institute of Agriculture at Rome, established under the international convention concluded at Rome on June 7, 1905, $8,600, or so much thereof as may be necessary, to remain available during the fiscal year ending June 30, 1911.

Mr. James R. Mann, of Illinois, made the point of order that the amendment was not germane and was without authority of law.

The Chairman [1] held:

It seems to the Chair that the amendment is germane to the paragraph. The fact that the paragraph itself would be subject to a point of order as unauthorized would not make in order an amendment providing for something else unauthorized, such as additional legislation, even though germane. The Chair reads from the Manual, in section 824:

"A paragraph which proposes legislation being permitted to remain may be perfected by a germane amendment, but this does not permit an amendment which adds additional legislation."

This amendment clearly adds a new, and so far as it has been presented to the Chair, an unauthorized expenditure. While it may be germane, it is not in the nature of perfecting the other expenditure. Therefore the Chair sustains the point of order.

1423. On January 25, 1912,[2] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and this amendment was pending, no point of order having been raised against it:

No part of any money appropriated in this act for public schools shall be used for the tutelage or otherwise of pupils in the public schools of the District of Columbia who do not reside in said District, or who, during such tutelage, do not own property in and pay taxes levied by the government of the District of Columbia in excess of the estimated cost of their tuition, or whose parents do not reside or are not engaged in public duties therein or during such tutelage pay taxes levied by the District of Columbia in excess of such estimated cost of tuition.

To this amendment Mr. John J. Fitzgerald, of New York, offered the following amendment:

Pupils shall not be admitted to or taught free of charge in the public schools of the District of Columbia who do not reside in said District, or who during such tutelage do not own property in and pay taxes levied by the government of the District of Columbia in excess of the tuition charged hereunder to other nonresident pupils, or whose parents do not reside or are not engaged in public duties therein, or during such tutelage pay taxes levied by the government of the District of Columbia in excess of the tuition charged hereunder to other nonresident pupils: *Provided,* That any other nonresident pupil may be admitted to and taught in said public schools on the payment of such amount, to be fixed by the board of education, with the approval of the Commissioners of said District, as will cover the expense of tuition and cost of textbooks and school supplies used by such pupil; and all payments hereunder shall be paid into the Treasury of the United States, one-half to the credit of the United States and one-half to the credit of the District of Columbia.

Mr. Charles C. Carlin, of Virginia, made a point of order on the amendment proposed by Mr. Fitzgerald.

The Chairman [3] ruled:

The amendment proposed by the gentleman from New York as a substitute for the amendment is in precise language the amendment which has heretofore been ruled out by the Chair.

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] Second session Sixty-second Congress, Record, p. 1316.

[3] Finis J. Garrett, of Tennessee, Chairman.

It is insisted, however, that the parliamentary situation has changed, and that by virtue of certain legislation having come in in the way of a limitation upon an appropriation, then an amendment which was probably subject to the point of order having been added to that, therefore it is now in order to bring in this original proposition, which has been two or three times removed from the bill on a point of order, and offer it as a germane substitute.

The Chair finds this in Hinds' Precedents:

"In an appropriation bill a paragraph embodying legislation may be perfected by a germane amendment, but this does not permit an amendment which adds additional legislation."

And, after stating the case, there is this reasoning of the Chair, Mr. Theodore E. Burton, of Ohio, being the Chairman:

"The Chair, though somewhat doubtful, thinks this the best rule: That if a paragraph has been included in the bill which has in it a taint of illegality or of being contrary to existing law, that paragraph can be corrected or perfected by an amendment, but if the further paragraph which is proposed as an amendment carries a further degree of illegality affecting the whole paragraph as amended, then it is not in order."

Concededly, the amendment proposed by way of a substitute by the gentleman from New York does broaden the legislation and extends it beyond the scope included in the amendment offered by the gentleman from Maryland and to that extent carries what Mr. Burton described as "a further degree of illegality." The Chair thinks the reasoning sound. The Chair thinks the amendment is not in order, and sustains the point of order.

1424. On March 27, 1928,[1] the Committee of the Whole House on the state of the Union was considering the naval appropriation bill, when the paragraph providing for the Bureau of Aeronautics was read.

Mr. James T. Begg, of Ohio, offered the following amendment as a proviso:

Provided further, That the Navy Department is directed to proceed at once to enter into contract for such rigid airships with the most favorable bidder in accordance with provision of existing law.

Mr. John Taber, of New York, made the point of order that the amendment was legislation and was not germane.

The Chairman[2] held:

The Chair thinks there can be no question that the proviso suggested in the amendment offered by the gentleman from Ohio, which reads as follows:

"Provided further, That the Navy Department is directed to proceed at once to enter into contract for such rigid airships with the most favorable bidder in accordance with the provision of existing law"—

is itself legislation, but it is offered as an amendment to a proviso reading as follows:

"Provided, That the contract for such rigid airships shall (a) reserve to the Government the right of cancellation of the construction of the second airship if changed circumstances, in the judgment of the Secretary of the Navy, shall suggest that course as being in the best interests of the Government, such right of cancellation to continue until the first airship shall have been tested in flight and accepted, and (b) provide that in the event of such cancellation the total cost of the first airship and all payments under and expenses incident to the cancellation of the contract for the second airship shall not exceed $5,500,000."

The Chair finds that paragraph 1 of section 2 of "An act to authorize the construction and procurement of aircraft and aircraft equipment in the Navy and Marine Corps, and to adjust and define the status of operating personnel in connection therewith," approved June 24, 1926, being Public Act No. 422 of the Sixty-ninth Congress, provides as follows:

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[1] First session Seventieth Congress, Record, p. 5459.

[2] Carl R. Chindblom, of Illinois, Chairman.

"PARAGRAPH 1. Two rigid airships of a type suitable for use as adjuncts to the fleet and of approximately 6,000,000 cubic feet volume each at a total cost not to exceed $8,000,000 for both ships, construction of one to be undertaken as soon as practicable and prior to July 1, 1928: *Provided,* That the two airships herein authorized shall be constructed in the United States: *Provided further,* That one or both of said airships shall be constructed either under contract similar to contracts covering the construction of other vessels for the Navy, or by the Navy Department, as the Secretary of the Navy may deem to be in the best interest of the Government."

It seems to the Chair that the proviso already in the bill, to which no point of order has been made, is clearly legislation, and goes even further than the amendment suggested by the gentleman from Ohio, and that the amendment offered by the gentleman from Ohio only in a very small particular, with reference to the requirement for immediate letting of contracts, differs from existing law, and in fact provides that even such letting shall be in accordance with the provision of existing law. The amendment is clearly germane to the proviso already in the bill, which was itself subject to a point of order as legislation on an appropriate bill, and the amendment does not enlarge the scope of that proviso. The Chair, therefore, overrules the point of order.

1425. A paragraph which proposes legislation in a general appropriation bill, being permitted to remain, may be perfected by the germane amendment. But this does not permit an amendment which adds additional legislation.

On March 9, 1916,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

For securing information for census reports, provided for by law, semimonthly reports of cotton production, periodical reports of stocks of baled cotton in the United States and of the domestic and foreign consumption of cotton; quarterly reports of tobacco; per diem compensation of special agents and expenses of same and of detailed employees, whether employed in Washington, D.C., or elsewhere; the cost of transcribing State, municipal, and other records, temporary rental of quarters outside of the District of Columbia; for supervising special agents, and employment by them of such temporary service as may be necessary in collecting the statistics required by law including $15,000 for collecting tobacco statistics authorized by law in addition to any other fund available therefor: *Provided,* That hereafter there shall be in the official organization of the bureau a separate, distinct, and independent division called the Division of Cotton and Tobacco Statistics, $512,000.

To this paragraph Mr. James P. Buchanan, of Texas, offered the following amendment:

And provided further, That the Chief of the Bureau of Foreign and Domestic Commerce be, and is hereby, authorized under the direction of the Secretary of Commerce to collect for the census reports and published from time to time statistics of the production and consumption of cotton and cotton goods in foreign countries, including the number of spindles in activity, number of cotton bales on hand, amount of cotton goods on hand, value of same, construction of new mills, closing down of mills, demand for and probable purchasers of cotton and cotton goods, and methods of merchandising the same. That in order to carry into effect the above provision the Secretary of Commerce is authorized to appoint four expert agents to cover England, France, Russia, Germany, Austria, Italy, China, Japan, and India, and an additional sum of $25,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated to be expended in carrying into effect the provisions of this act, including clerical assistants in the District of Columbia or elsewhere or to secure by purchase or otherwise such reports, manuscripts, and publications as may be necessary to carry out in the most efficient manner the provisions of this act.

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[1] First session Sixty-fourth Congress, Record, p. 3863.

Mr. Joseph W. Byrns, of Tennessee, made the point of order that the amendment was legislation and was not germane to the bill.

The Chairman [1] said:

The gentleman from Texas offers an amendment, which the Chair will not take the time to read in full, it having been read by the Clerk.

To this amendment the gentleman from Tennessee makes the point of order.

Under the rules of the House it is not in order to legislate on appropriation bills unless the legislation comes within the purview of the Holman rule by retrenching expenditures in one of the methods stated in the rule.

The Chair is aware that the usual practice of the House is that where a provision is inserted in an appropriation bill that is of itself subject to a point of order and allowed to remain in the bill it is in order further to amend that provision by germane amendments. But the rulings of the House have been that it is not in order to amend such a paragraph by adding additional affirmative legislation; that the amendment must be germane and must add no new legislation.

The Chair cites section 3836 of Hinds' Precedents:

"In an appropriation bill a paragraph embodying legislation may be perfected by a germane amendment, but this does not permit an amendment which adds additional legislation."

The same principle is stated in paragraph 3837, in a ruling by Mr. Burton, and also a ruling by Vice President Sherman when he was a Member of this House. The same principle is also enunciated in paragraph 3838 of Hinds' Precedents.

The Chair can not escape the conclusion, from the reading of the amendment, that it adds additional legislation. While the Chair believes that the proviso of the paragraph in the bill, which taints the whole paragraph, is subject to the point of order, yet that having been withdrawn, the paragraph is subject to germane amendment which does not add new legislation.

But the Chair thinks the amendment in question does add new legislation, and for that reason sustains the point of order.

1426. On February 20, 1917,[2] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. To a paragraph proposing legislation which had remained in the bill, no point of order having been made against it, Mr. Augustus P. Gardner, of Massachusetts, offered the following amendment:

Provided, That hereafter the monthly pay of enlisted men of the Army shall be increased as follows: Master electricians and all others receiving $75, to $85; master engineer, junior grade, Corps of Engineers, from $65 to $75; sergeant, first class, Medical Department, from $50 to $60; first sergeants, from $45 to $65; sergeant, first class, Corps of Engineers, and all others receiving $45, to $55; battalion sergeants major of Infantry, and all others receiving $40, to $50; sergeants of Engineers, and all others receiving $36, to $46; sergeants of Cavalry, Infantry, and Artillery, from $30 to $40; quartermaster sergeants of Cavalry, and all others receiving $30, to $40; corporals of Engineers, Ordnance, Signal Corps, Cavalry, Artillery, and Infantry, from $24 and $21 to $38; chief mechanics, and all others receiving $24, to $34; saddlers, and all others receiving $21, to $31, privates, first class, and all others receiving $18, to $28; privates, second class, and all others receiving $15, to $25.

Mr. Hubert S. Dent, jr., of Alabama, made the point of order that the amendment was an attempt to change law.

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[1] Charles R. Crisp, of Georgia, Chairman.

[2] Second session Sixty-fourth Congress, Record, p. 3711.

The Chairman [1] held:

The gentleman from Massachusetts a day or two ago called the attention of the Chair to certain precedents, in this connection. These precedents have been duly examined and found to be difficult of reconciliation. The general proposition with which the Members are all familiar is that a paragraph in a bill which contains matter not in order is subject to a point of order even though the offending and illegal matter may constitute but a relatively small proportion of the entire paragraph. This point of order is good either against the entire paragraph or the offending matter. But if the point of order not made to the paragraph, or offending matter, then the entire paragraph becomes in order. It has been held in the latter case that such a paragraph may be perfected by a germane amendment. (Hinds, Vol. IV, secs. 3823–3835, 3838). Hence the question has often arisen whether these perfecting amendments should be germane to the paragraphs as a whole, thereby adding a new and greater proposition of illegality than that contained in the original offending matter, or germane only to this matter which has become in order by reason of the failure to raise the question of illegality. The precedents are conflicting. It has been held that the right to perfect a paragraph which would have been out of order if the question has been raised, by a germane amendment, does not permit an amendment which adds an additional proposition of illegality (Hinds, Vol. IV, secs. 3836, 3837, 3862).

In other words, the later precedents require the perfecting amendment to be germane to the original offending language in the paragraph. If the amendments carrying additional legislation are germane to the offending language, they are in order, but not so if they relate rather to the body of the paragraph. This proposition is clearly stated in the following decision:

"If a paragraph has been included in a bill which has in it a taint of illegality, that paragraph can be corrected or perfected by an amendment, but if the paragraph which is proposed as an amendment, carries a further degree of illegality, affecting the whole paragraph as amended, then it is not in order."

The offending matter in the paragraph under consideration is contained in these words:

"As expert first-class gunners, Field Artillery, $5 per month."

It can hardly be said that the amendment offered by the gentleman from Massachusetts is germane to this language, and designed to perfect it. This being so, the Chair holds that a new and comprehensive proposition of illegality is sought to be added to the paragraph by the proposed amendment. For this reason, and in conformity with the precedent last cited, the Chair sustains the point of order.

1427. On March 5, 1918,[2] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the paragraph providing clerk hire for Members and Delegates was read.

Mr. William H. Stafford, of Wisconsin, offered the following amendment:

Clerk hire, Members and Delegates: To pay each Member, Delegate, and Resident Commissioner, for clerk hire necessarily employed by him in the discharge of his official and representative duties, $2,000 per annum, in monthly installments, $880,000, or so much thereof as may be necessary; and Representatives and Delegates elect to Congress whose credentials in due form of law have been duly filed with the Clerk of the House of Representatives, in accordance with the provisions of section 31 of the Revised Statutes of the United States, shall be entitled to payment under this appropriation: *Provided,* That all clerks to Members, Delegates, and Resident Commissioners shall be placed on the roll of employees of the House and be subject to be removed at the will of the Member, Delegate, or Resident Commissioner by whom they are appointed; and any Member, Delegate, or Resident Commissioner may appoint one or more clerks, who shall be placed on the roll as the clerk of such Member, Delegate, or Resident Commissioner making such appointments.

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[1] Edward W. Saunders, of Virginia, Chairman.

[2] Second session Sixty-fifth Congress, Record. p. 3066.

A point of order against the amendment having been reserved and withdrawn, Mr. Finis J. Garrett, of Tennessee, proposed this amendment to the amendment:

Provided, further, That said amount of $2,000 shall be the annual allowance for clerk hire for each Member, Delegate, and Resident Commissioner hereafter, to be paid under the limitations and upon the conditions herein prescribed.

In ruling upon a point of order raised against the amendment to the amendment by Mr. James W. Good, of Iowa, the Chairman [1] said:

The Chair will ask the indulgence of the committee for a few moments while he states the principles upon which his ruling will be based. These principles are often appealed to, and merit a very precise and definite statement in order that they may be clearly understood and their application readily followed. If a paragraph contains an offending matter, and I mean by this any matter that is subject to a point of order, then the entire paragraph is subject to a point of order. It is competent, however, for a Member to direct his point of order to the offending matter alone, and if he thus restricts his objection, then the offending matter only will be expunged. But if the point of order is directed to an entire paragraph any portion of which is not in order, the point of order will be sustained as to the paragraph in its entirety. On the other hand a paragraph containing offending matter but not objected to on that account remains in the bill as a whole and, within certain limitations, is open to amendment. The statement is often made that under the conditions last stated the paragraph is open to amendments that would otherwise be out of order. But this is not a very precise statement of the rule, since it is calculated to convey the erroneous idea that the door is wide open to amendments whatever their character or the extent of their illegality. The true ruling and the one fully supported by the precedents is that a paragraph embodying legislation which is allowed to remain in an appropriation bill may be perfected by a germane amendment, but this does not permit an amendment which adds additional legislation. Fourth Hinds, section 3836, ruling by Theodore Burton, Chairman. The Chairman, as a part of his ruling, made the following statement:

"The Chair, though somewhat doubtful, thinks the best rule is: That if a paragraph has been included in a bill which has in it a taint of illegality, or of being contrary to existing law, that paragraph can be corrected or perfected by an amendment; but if the further paragraph which is proposed, as an amendment, carries a further degree of illegality, affecting the whole paragraph as amended, then it is not in order."

Manifestly this ruling is fundamentally sound. The existence of illegality in a paragraph should not furnish the groundwork, or afford the excuse, to engraft upon the paragraph additional and perhaps more sweeping illegalities in the form possibly of radical changes of existing law. The principle fundamental to the whole situation is that is it undesirable to enact essential legislation in an appropriation bill. The distinction made by the Chairman in the decision cited, is clearly in the interest of good legislation, and wholesome procedure. It is one that was not only proper to be made upon the facts in that case, but one that ought to be followed, since otherwise, if some nonessential, but offending matter, should be allowed to remain in a paragraph, amendments of the most sweeping character, embodying new and additional illegalities might be construed to be in order, upon the theory that the presence of the offending matter in the paragraph under consideration, removed the right to object to new illegalities. Further rulings sustaining the position of Chairman Burton will be found in Fourth Hinds, section 3823, section 3826, section 3832, section 3838.

The conclusion of this matter then is that:

"In an appropriation bill a paragraph embodying legislation and allowed to remain in the bill may be perfected by a germane amendment,"

that is, an amendment germane to this otherwise illegal matter,

"but this does not permit an amendment which adds additional legislation which is not a development, or perfecting of the original offending matter."

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[1] Edward W. Saunders, of Virginia, Chairman.

The amendment which the gentleman from Tennessee submits, proposes to add a new feature of permanent law to the proposition now under consideration. If there is illegal matter in the pending proposition, to what extent can the matter proposed by the gentleman from Tennessee be considered a development, or perfecting of that matter? It is an enlargement of the illegal content of the proposition before the committee, in the way of new and permanent legislation. The Chair does not consider that this amendment fairly comes within the principle announced with respect to perfecting offending matter allowed to remain in an appropriation bill, and the point of order is sustained.

Thereupon Mr. Charles Pope Caldwell, of New York, offered the following as an amendment to the pending amendment proposed by Mr. Stafford:

And in addition thereto each Member, Delegate, and Resident Commissioner, who shall certify that additional help is necessary in the discharge of his official duties, one clerk, who shall be a stenographer, $100 per month during the session of Congress, to pay which so much as may be necessary is hereby appropriated.

The Chairman ruled:

The Chair will not restate the principles previously announced.

The Chair has been cited to the decision of Mr. Chairman Harrison, and has examined it carefully, and also the other decisions on the principle involved. Mr. Chairman Harrison seemed to consider that the amendment was in order on the general ground that the paragraph contained illegal matter, and therefore other illegal matter could be submitted by way of amendment. There was no precise statement of the principle, or citation of precedents. I have tried to point out the limitations which surround the admission of illegal matter to a paragraph already tainted with illegality.

The amendment provides an additional allowance for clerk hire for Members, and provides further that this additional allowance shall be expended for a stenographer. Looking to the proposition proposed to be amended, what is the illegal matter in that proposition which this amendment will develop, and perfect, and to which it may be fairly considered germane?

It would be difficult I think, to indicate this matter. The amendment is illegal in more than one respect. The paragraph, or amendment to which this amendment is offered, contains illegal matter, in that the amount allowed by basic law is increased from $1,200 to $2,000. Can it be fairly construed that an amendment which increases further that allowance, and provides in addition that this increase shall be expended upon a stenographer, merely perfects the illegal increase in the original allowance, without adding a new element of illegality, namely that the Members will be compelled to apply this increase to the employment of a stenographer? The amendment reduces the discretion of the Members in the application of the money appropriated for clerk hire. It directs their discretion, and requires it to be exercised in an accurately prescribed fashion.

It would be perfectly appropriate and in order to increase by amendment the amount of $2,000, and make it $3,000, if the committee chooses to do so, or $4,000, or any other amount that may be desired. Such amendments would be germane developments of the illegal matter. Should this be done, the Members could utilize the increase over the original allowance for the employment of a stenographer, since there is no limitation in the basic law upon the use of the money appropriated for clerk hire.

A Member may expend his allowance upon one, two, three or four clerks; they may be all stenographers; they may be clerks who are not stenographers; they may be typists; they may be both stenographers and typists. These details are left to the discretion of the Member when selecting his clerks. But this amendment takes away this discretion in the use of the increase proposed. It prescribes that the increased amount to be appropriated for clerk hire shall be expended upon the employment of a stenographer, and for no other purpose. Existing law leaves to the Members the free exercise of discretion in the application of the funds to be expended to secure clerical assistance. The amendment proposes new law. It creates an additional fund for clerk hire, a fund that can be expended in but one direction, namely the employment of a stenographer. This will

be legislation on an appropriation bill, and new illegality. It is not a perfecting amendment to existing illegality, that is to say to what would be existing illegality if the increased appropriation for clerk hire had not been allowed to remain in the amendment without objection. The point of order is sustained.

1428. January 26, 1920,[1] the diplomatic and consular appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph was reached providing for the collection of inheritance taxes on estates of diplomatic officers dying abroad.

This paragraph being considered by virtue of a special order previously adopted by the House, Mr. Tom Connally, of Texas, offered the following amendment:

Provided, That hereafter in each private and administration proceeding in said courts there shall be, and is hereby, levied on each respective estate and there shall be assessed and collected by the clerk of the court before entering the order of final distribution, to be paid into the Treasury of the United States, as fees of court, an amount of money equal to the amount of inheritance taxes that would be due and collectible under the laws of the United States in the case of the estate of a decedent who resided within the territorial jurisdiction of the United States of an equal value.

Mr. Nicholas Longworth, of Ohio, made a point of order against the word "hereafter" as providing permanent law.

The Chairman[2] said:

If this were on a legislative bill, the Chair thinks that he would hold the amendment to be in order, but this is an appropriation bill, and what applies to a legislative bill does not apply to an appropriation bill. Anything that adds new legislation to the pending section under the rules of the House can not be in order. The Chair sustains the point of order.

1429. On February 24, 1920,[3] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read a paragraph making appropriation for clerk hire for Members and Delegates, and including a proviso which, though providing legislation, was permitted to remain in the bill by general consent.

Mr. Charles Pope Caldwell, of New York, offered an amendment inserting the word "hereafter," against which Mr. Eugene Black, of Texas, raised the question of order that it proposed permanent law.

The Chairman[4] ruled:

The gentleman from Texas makes the point of order to the amendment offered by the gentleman from New York which, by the use of the word "hereafter", makes permanent law of this appropriation. The Chair is a little bit perplexed as to this question, and thinks it is a pretty close point. Of course, if the point of order had been raised to the proviso as in the bill, the Chair would have been compelled to rule it out and to have sustained the point of order, as it is legislation on an appropriation bill. It is, however, in order under the rules to offer to a provision subject to a point of order, but upon which no point is made, another provision, which is also subject to a point of order, provided it is germane to the provision to which it is offered. The Chair thinks that inasmuch as the item carried in the bill relates only to the expenditure of this money for the fiscal year 1921, an amendment which extends it to the years 1922, 1923, and so forth, ad infinitum, goes beyond the purview of the item as originally carried in the bill, and feels constrained to sustain the point of order.

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[1] Second session Sixty-sixth Congress, Record, p. 2083.

[2] Martin B. Madden, of Illinois, Chairman.

[3] Second session Sixty-sixth Congress, Record, p. 3421.

[4] Nicholas Longworth, of Ohio, Chairman.

1430. On March 27, 1920,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. Charles R. Davis, of Minnesota, proposed an amendment increasing the rate of taxation in the District of Columbia.

No point of order having been raised on the amendment. Mr. L. J. Dickinson, of Iowa, offered an amendment to the amendment further changing the rate of taxation.

Mr. James R. Mann, of Illinois, made a point of order against the amendment to the amendment.

The Chairman[2] ruled:

The gentleman from Minnesota, under the rule, has introduced an amendment, as follows:

"That the rate of taxation on real estate in the District of Columbia, under the provisions of section 5 of the District of Columbia appropriation act approved July 1, 1902, is hereby increased from 1½ per cent to 2½ per cent, and the rate of taxation on tangible personal property in the District of Columbia, under the provisions of section 6 of the said act is hereby increased from 1½ per cent to 2½ per cent."

The gentleman from Iowa proposes an amendment, which reads as follows:

"And the rate of taxation on intangible property as provided for in section 9 of the act making appropriations to provide for the expenses of the District of Columbia, approved March 3, 1917, is hereby increased from three-tenths of 1 per cent to 1 per cent."

To this amendment a point of order has been made, as to its germaneness.

Under the rules of the House, and under the rulings that have been made frequently by gentlemen presiding over the Committee of the Whole House on the state of the Union, it has been held that a paragraph which proposes legislation, being permitted to remain, may be perfected by a germane amendment. But this does not permit an amendment if it adds additional legislation. It can not be contended that this will relieve the Treasury of the United States from any additional burden, for on the face of the amendment there is nothing to indicate that the Treasury will be made less liable to expenditures than it has been in the past, and inasmuch as the legislation proposed under the amendment offered by the gentleman from Iowa does introduce new legislation, notwithstanding the fact that it may be germane, the Chair, under all the rules and under all the rulings that he has been able to find, is bound to hold the point of order well taken.

1431. A paragraph in an appropriation bill embodying legislation to which no point of order has been directed is subject to germane amendment, but an amendment providing further legislation is not in order.

On January 6, 1923,[3] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A paragraph was read appropriating for miscellaneous and contingent expenses of the metropolitan police, and including the following proviso:

Provided, That the War Department may, in its discretion, furnish the commissioners, for use of the police, upon requisition, such worn mounted equipment as may be required.

The proviso being unobjected to, Mr. Thomas L. Blanton, of Texas, offered this amendment:

Provided, That all members of the police force shall be furnished with their uniforms and all required equipment.

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[1] Second session Sixty-sixth Congress, Record, p. 4933.

[2] Martin B. Madden, of Illinois, Chairman.

[3] Fourth session Sixty-seventh Congress, Record, p. 1384.

Mr. Louis C. Cramton, of Michigan, made the point of order that the proviso to which the amendment was offered as not subject to a point of order and therefore did not admit an amendment carrying legislation, and that the amendment proposed was not germane.

The Chairman [1] decided:

The Chair feels that when the amendment was originally offered there was no question of its being subject to the point of order because of the wording which the Chair pointed out to the gentleman from Texas, a provision, by the way, with which the Chair sympathizes. Now the amendment is nearer the line, but the Chair still feels that it is open to objection; first, because it is repugnant to the rule to endeavor to amend one specific subject by another specific subject; second, because, as the subject matter sought to be amended deals with equipment supplied by the War Department and the amendment provides for equipment to be furnished free of expense, the amendment lacks the necessary relationship to make it germane.

A similar proposition was presented when it was sought to amend the war risk insurance act by a free-policy amendment. If the Chair recalls correctly the incident, Chairman Tilson ruled the amendment out of order. The Chair in this instance sustains the point of order.

1432. On February 22, 1917,[2] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. To a paragraph of the bill relating to the number of officers of the General Staff to be detailed to service in the District of Columbia, and proposing legislation, Mr. Martin B. Madden, of Illinois, offered an amendment providing additional legislation.

Mr. Hubert S. Dent, Jr., of Alabama, having raised the question of order on the amendment, Mr. Madden said:

I submit, Mr. Chairman, that the item to which this is proposed as an amendment is itself subject to a point of order; and the rules of the House provide that where an amendment is offered to an item which is in itself subject to a point of order the item offered is in order, if germane. For, if the House admits the right of consideration of any paragraph or any portion of a paragraph that is not in order, it must be conceded that an amendment otherwise subject to a point of order would be in order to that paragraph. There can be no question about that. That is the universal practice. It has been the rule of the House. It has been held by every presiding officer of the House on all occasions. I submit, Mr. Chairman, that this rule, in face of the fact that the provision in the bill to which it is proposed as an amendment is itself subject to a point of order, makes this amendment in order. I contend, Mr. Chairman, that this is germane in the first instance; that it deals with the General Staff, and the provision to which it is proposed as an amendment is a provision which itself deals exclusively with the General Staff. To-day the General Staff consists of 55 men, only one-half of whom are permitted to serve in Washington, at headquarters. And the proposal of the committee is to change the law so as to permit the whole of the General Staff to serve at headquarters. And my proposition is to so amend the amendment of the committee as to make the General Staff not 55 but 92.

The Chairman [3] held:

The chief difficulty that the Chair has had in this matter has been the difficulty in arriving at the facts necessary for a decision. The gentleman from Illinois seeks to bring this amendment within the rule relative to perfecting by amendment a paragraph, originally not in order, but which has become in order by the failure to raise the question of order. The existing law which the paragraph in the bill proposes to suspend is as follows:

"Not more than one-half of all of the officers detailed in said corps shall at any time be stationed or assigned to or employed upon any duty in or near the District of Columbia."

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[1] Frederick C. Hicks, of New York, Chairman.

[2] Second session Sixty-fourth Congress, Record, p. 3942.

[3] Edward W. Saunders, of Virginia, Chairman.

The language of the amending paragraph is intended to suspend the operation of the above-cited law, under certain prescribed conditions. Should the paragraph containing this language remain in the bill, the President in time of actual war, or in an emergency will have authority to call all of the detailed officers to Washington. An amendment germane to this particular proposition would be one providing, for instance, that some number of detailed officers, less than the total might be stationed or employed in or near the District of Columbia. Other germane amendments will naturally suggest themselves. But the amendment of the gentleman from Illinois is not limited to affecting or controlling the number of officers that may be assigned to duty in or near the District of Columbia. It proposes a comprehensive scheme of legislation in the guise of a perfecting amendment, and falls within the following principle:

"To a bill amending a general law on a specific point, an amendment relating to the terms of the law, rather than to those of the bill, was offered and ruled not to be germane. (5 Hinds', sec. 5806.)"

It also falls within this principle:

"A paragraph which proposes legislation in a general appropriation bill being permitted to remain, may be perfected by a germane amendment, but this does not permit an amendment which contains additional legislation. (Rules of House, sec. 824.)"

Assuredly the amendment of the gentleman from Illinois contains a large amount of additional legislation.

The Chair sustains the point of order.

1433. On December 13, 1917,[1] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph was read providing for censorship of foreign mails. It was conceded that the paragraph comprised legislation, but no point of order being made against it Mr. Halvor Steenerson, of Minnesota, offered the following amendment:

Provided, That all persons employed under this appropriation shall be appointed from the list of eligibles to be supplied by the Civil Service Commission in accordance with the civil-service law: *Provided further,* That the authority under this appropriation shall cease to be in effect when the existing state of war shall have passed, the date of which shall be ascertained and proclaimed by the President: *And provided further,* That it shall be the duty of the Postmaster General to submit to Congress at the beginning of its regular session in December of each year a detailed statement of all persons appointed, and the salary or compensation paid or allowed to each.

Mr. John A. Moon, of Tennessee, made the point of order that the amendment proposed new law.

The Chairman[2] ruled:

On page 18, line 21, provision is made for a censorship of foreign mails. That provision was subject to the point of order, but has already been accepted, no point of order having been made against it. The Chair thinks that any matter by way of amendment that is germane should be acceptable and not subject to the point of order, but the Chair thinks that the first proviso of the amendment is not germane and modifies the existing civil service law. Therefore this invades the rule as to germaneness, and the Chair sustains the point of order.

On an appeal by Mr. Steenerson, the decision of the Chair was sustained by a vote of 18 yeas, 14 noes.

1434. On December 13, 1928,[3] the Committee of the Whole House on the state of the Union was considering the Interior Department appropriation bill. This paragraph was pending:

For expenses necessary to the purchase of goods and supplies for the Indian Service, including inspection, pay of necessary employees, and all other expenses connected therewith, including

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[1] Second session Sixty-fifth Congress, Record, p. 269.

[2] Scott Ferris, of Oklahoma, Chairman.

[3] Second session Seventieth Congress, Record, p. 534.

advertising, storage, and transportation of Indian goods and supplies, $600,000: *Provided,* That no part of this appropriation shall be used in payment for any services except bill therefor is rendered within one year from the time the service is performed.

Mr. Thomas L. Blanton, of Texas, made the point of order that the paragraph proposed legislation, but before decision by the Chairman withdrew the point of order and offered the following amendment:

Provided, That hereafter no appropriation for this purpose shall be used in payment for any service except bill therefor is rendered within one year from the time the service is performed.

Mr. William F. Stevenson, of South Carolina, raised a question of order against the amendment.

The Chairman [1] held:

The Chair is of the opinion that no matter whether the proviso in the bill originally was subject to a point of order or not, the amendment offered by the gentleman from Texas goes beyond the scope and purpose of the proviso in the bill itself. The proviso in the bill itself refers only to the appropriation contained in the bill, while the amendment offered by the gentleman from Texas will operate as a permanent limitation upon all appropriations of this character. It therefore goes beyond the purport of the bill. The Chair will merely refer to a well-known decision [2] by Chairman Frederick C. Hicks, of New York, on January 8, 1923. The Chair believes that decision is ample authority in the present situation, and the Chair sustains the point of order.

1435. An amendment perfecting a paragraph in an appropriation bill proposing legislation but unobjected to is not in order if not germane or if providing additional legislation.

On February 24, 1925,[3] the second deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

The appropriation of $3,850,000, and the authority to incur obligations in addition thereto for $3,000,000, for additional hospital and out-patient dispensary facilities for patients of the United States Veterans' Bureau, contained in the "second deficiency act, fiscal year 1924," are extended until June 30, 1926.

The paragraph being permitted to remain in the bill, Mr. Tom Connally, of Texas, offered the following amendment:

And in order to provide sufficient hospital and out-patient dispensary facilities to enable the United States Veterans' Bureau to care for its beneficiaries in Veterans' Bureau hospitals rather than in contract temporary facilities and other institutions, the Director of the United States Veterans' Bureau, subject to the approval of the President, is hereby authorized to provide additional hospital and out-patient dispensary facilities for persons entitled to hospitalization under the World War veterans' act, 1924, by purchase, replacement, and remodeling or extension of existing plants, and by construction on sites now owned by the Government or on sites to be acquired by purchase, condemnation, gift, or otherwise, such hospitals and out-patient dispensary facilities, to include the necessary buildings and auxiliary structures, mechanical equipment, approach work, roads and trackage facilities leading thereto; vehicles, livestock, furniture, equipment, and accessories, and also to provide accommodations for officers, nurses, and attending personnel; and also to provide proper and suitable recreational centers, and the Director of the United States Veterans' Bureau is authorized to accept gifts or donations for any of the purposes named herein.

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[1] Carl R. Chindblom, of Illinois, Chairman.

[2] Sec. 8514 of this work.

[3] Second session Sixty-eighth Congress, Record, p. 4588.

Mr. Martin B. Madden, of Illinois, presented a point of order against the amendment.

The Chairman [1] decided:

The Chair has examined the authority cited by the gentleman from Texas in Hinds' Precedents, volume 4, paragraph 3823, the substance of which is that a paragraph which proposes legislation on a general appropriation bill being permitted to remain, it may be perfected by a germane amendment. That, of course, is a familiar rule of procedure in the House and in the committee, but the Chair is of the opinion that the amendment offered by the gentleman from Texas does not relate to the same legislation that is covered in the bill pending before the committee. The gentleman from Texas offers a new authorization with new provisions for carrying out the purposes of the amendment, and in many ways it is broader and more complete than the authorization contained in the second deficiency act for the fiscal year 1924. In other words, the amendment offered by the gentleman from Texas does not amend, modify, or change the second deficiency act for the fiscal year 1924, but is an entirely new proposal.

The gentleman's amendment, which covers practically three pages, contains a large number of provisions which are not contained in the second deficiency act of 1924, besides making a new authorization. The Chair feels constrained to sustain the point of order.

1436. On April 8, 1910,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and the Clerk had read a paragraph authorizing the construction of two battleships for the Navy.

Mr. William M. Calder, of New York, offered the following amendment.

At least one of such battleships shall be built and constructed under the direction of the Secretary of the Navy at one of the navy yards. The other of said battleships may also be constructed at one of the navy yards, in the discretion of the Secretary of the Navy, or by contract, as hereinafter provided.

Mr. George E. Foss, of Illinois, made the point of order that the amendment proposed legislation and was not germane.

The Chairman [3] ruled:

On April 15, 1908, this item was in the naval appropriation bill:

"Increase of the Navy: That, for the purpose of further increasing the Naval Establishment of the United States, the President is hereby authorized to have constructed by contract or in navy yards, as hereinafter provided, two first-class battleships, to cost"—

And so forth.

To that amendment was offered, proposing to strike out the words "by contract or in navy yards, as hereinafter provided," and inserting a provision similar to the amendment now offered, and the Chair held that the amendment thus offered providing a method constructing the battleships was germane to the paragraph in the bill, which itself provided for a method of constructing the battleships.

The paragraph itself contained legislation, or at least contained a method for the construction, and any amendment germane to that was in order.

The paragraph now before the House provides

"That, for the purpose of further increasing the naval establishment of the United States the President is hereby authorized to have constructed two first-class battleships"—

without any provision legislating as to the manner of constructing the battleships. It seems to the Chair that the amendment offered—

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[1] Carl R. Chindblom, of Illinois, Chairman.

[2] Second session Sixty-first Congress, Record, p. 4432.

[3] James R. Mann, of Illinois, Chairman.

"That at least one of such battleships shall be constructed under the direction of the Secretary of the Navy at one of the navy yards, and that the other of such battleships may be also constructed at one of the navy yards, in the discretion of the Secretary, or by contract, as hereinafter provided"—comes under very different conditions from the amendment which was offered in 1908 to the paragraph then pending in the naval appropriation bill.

The Chair begs to call attention to a very clear distinction. In the paragraph of the bill of 1908 the method of building the vessels by contract or otherwise was in the paragraph itself, and the Chair held that an amendment to the paragraph was germane. That proposition is not contained in this paragraph. The gentleman informs the Chair that in a subsequent paragraph of the bill there is a matter relating to the same subject. If so, it may be that the gentleman's amendment will be in order when that subject matter is reached. But it has not yet been reached. The Chair sustains the point of order.

1437. A limitation on the discretion exercised under law by an executive is a change of law.

On March 9, 1916,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read the paragraph appropriating for the support of the Bureau of Foreign and Domestic Commerce, and Mr. Asbury F. Lever, of South Carolina, offered the following amendment:

And provided further, That out of this sum there may be expended $25,000 for the collection and publication, from time to time, of statistics of production and consumption of, and demand for, cotton and cotton goods in foreign countries.

In response to a point of order on the amendment presented by Mr. Joseph W. Byrns, of Tennessee, Mr. Lever quoted the language of the act creating the Department of Commerce.

Mr. James R. Mann, of Illinois, said:

I drew that language. Does the gentleman think that general language of that kind authorizes an appropriation for a specific purpose? That would require the Chair, then, to determine whether, in his opinion, the investigation proposed would foster, promote, or develop industries. That would be a matter of opinion. The gentleman will find, I think, in the same law, that it provides that the Department of Commerce shall gather and compile and publish information. Does the gentleman think that would authorize an appropriation for the gathering of specific information? It has never been held that way anywhere in any of the provisions creating the departments. Of course, I know we have gone the limit on the Department of Agriculture, but there is quite an easy differentiation between the two. We might say in an act that the Government shall do useful things for the citizens of the United States; but that would not authorize a specific appropriation which, in the opinion of some gentlemen, would be a useful thing for the citizens of the United States. Those terms have never in my experience been considered as authority for specific appropriations for specific acts. Otherwise no one would ever dare use general terms.

The Chairman[2] ruled:

The Chair is of opinion that the paragraph providing for the taking of these various statistics, being in the legislative, executive, and judicial appropriation bill is out of order. Being out of order the question arises whether, having been allowed to remain in the bill, it can be amended by inserting new matter. As the Chair has several times today ruled, under the practice of the House under these conditions the provision of the bill could be further amended

[1] First session Sixty-fourth Congress, Record, p. 3872.

[2] Charles R. Crisp, of Georgia, Chairman.

by germane amendments. The Chair, therefore, must consider whether the amendment is germane to the section of the bill and whether it is obnoxious to the point of order that it is legislation on an appropriation bill. The provision of the bill appropriates $125,000, to be expended under the direction of the Secretary of Commerce, for the purpose named in the bill. The amendment in question seeks to limit and control and interfere with executive discretion by providing that $25,000 of the amount shall be used for the specific purpose denominated in the amendment. The Chair thinks it interferes with that legislative discretion vested by law in the Secretary of Commerce, and to that extent changes existing law; and the Chair, while in thorough sympathy with the amendment, feels constrained to sustain the point of order.

1438. A provision limiting discretion vested in an executive officer is legislation and is not in order on an appropriation bill.

On January 23, 1933,[1] the Committee of the Whole House on the state of the Union had under consideration the War Department appropriation bill.

Mr. Henry E. Barbour, of California, offered an amendment containing this provision:

CITIZENS' MILITARY TRAINING CAMPS

That in the selection of trainees to attend such camps preference shall be given to persons who are unemployed or the heads of whose families are unemployed and who are otherwise qualified.

Mr. Ross A. Collins, of Mississippi, made the point of order that the amendment restricted executive discretion in that it limited the authority conferred on reserve officers by section 47 of the national defense act, reading as follows:

The Secretary of War is hereby authorized to maintain upon military reservations or elsewhere schools or camps for the military instructions and training with a view to their appointment as reserve officers or noncommissioned officers or such warrant officers, enlisted men, and civilians as may be selected upon their own application.

The Chairman[2] sustained the point of order and said:

It is very clear to the Chair that the amendment is legislation. It changes existing law in that it deprives the Secretary of War of the discretion that he now has with respect to these applications. For this reason the Chair sustains the point of order.

1439. The law authorizing the Secretary of Agriculture to sell seed for cash, a proposition authorizing him to sell for credit was held to be legislation.

On February 18, 1918,[3] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union when the Clerk read:

For additional for procuring, storing, and furnishing seeds as authorized by section 3 of the act entitled "An act to provide further for the national security and defense by stimulating agriculture and facilitating the distribution of agricultural products," approved August 10, 1917, including not to exceed $5,000 for rent and personal services in the District of Columbia, $4,000,000, which may be used as a revolving fund until June 30, 1918.

Mr. Patrick D. Norton, of North Dakota, proposed this amendment:

Provided, That the Secretary of Agriculture may sell the said seed to farmers on security approved by the Secretary and under rules and regulations prescribed by him.

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[1] Second session Seventy-second Congress, Record, p. 2317.

[2] John W. McCormick, of Massachusetts, Chairman.

[3] Second session Sixty-fifth Congress, Record, p. 2278.

Mr. Swagar Sherley, of Kentucky, made a point of order on the amendment and said:

Mr. Chairman, I insist on the point of order. Section 3 of this law provides:

"That whenever the Secretary of Agriculture shall find that there is or may be a special need in any restricted area for seeds suitable for the production of food or feed crops, he is authorized to purchase or contract with persons to grow such seeds, to store them, and to furnish them to farmers for cash, at cost, including the expense of packing and transportation."

The Chairman [1] decided:

The paragraph in the bill is in aid of section 3, the food survey law. That provides that the Secretary shall sell for cash. The amendment provides that the Secretary shall have authority to sell it for credit. That is an enlargement of the power of the Secretary; it is legislation on an appropriation bill and is out of order. The Chair sustains the point of order.

1440. A proposition to authorize the construction of vessels for the Navy was held to involve legislation.

On February 10, 1919,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph authorizing the construction of new vessels was read.

Mr. James R. Mann, of Illinois, made the point of order that the paragraph proposed legislation.

The Chairman [3] cited former decisions [4] on similar questions, and said:

The gentleman from Illinois makes the point of order upon the paragraph which reads:

"For the purpose of further increasing the Naval Establishment of the United States the President of the United States is hereby authorized to undertake prior to July 1, 1922, the construction of the vessels enumerated below."

The point of order, as the Chair understands, is generally that that constitutes legislation upon an appropriation bill, which is not in order under the general rules of the House. Of course, all gentlemen are familiar in a general way with what has been the procedure upon naval appropriation bills with reference to the increases provided. The Chair stated in the beginning of the discussions that his recollection was that the first ruling was one made by Mr. Chairman James B. McCreary, of Kentucky, and, in so far as time has permitted for a hasty examination, the Chair was correct in his recollection.

There is a reason for the rule which prevents legislation upon appropriation bills, else that rule would not have been continued through all these long years. The reason is obvious. By attaching legislation to appropriation bills necessary and vital to the existence of the Government—I mean appropriations necessary and vital to the existence of the Government—gentlemen may be compelled to vote against their deliberate judgement. That is to say, they may be compelled to vote for legislation to which they are opposed or else let the Government starve. Therefore, the present occupant of the chair feels that from the parliamentary standpoint it would be unwise to broaden the rule beyond the point to which it has already been broadened. In the case which was ruled upon by Mr. Chairman McCreary the authorization and appropriation went hand in hand. That which was proposed in the amendment offered by Mr. Sayers was a proposition to make the ships provided for in that amendment an immediate and tangible part of the Naval Establishment, being appropriated for in that particular bill, and hence it was held to be a continuing public work.

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[1] John N. Garner, of Texas, Chairman.

[2] Third session, Sixty-fifth Congress, Record, p. 3096.

[3] Finis J. Garrett, of Tennessee, Chairman.

[4] Hinds Precedents, sections 3723, 3724.

The proposition involved in this bill, to which the gentleman from Illinois has made his point of order, is to authorize a program for the future, not connected with any immediate program and not making any appropriations therefor. It seems to the Chair that that is making an extension of the rule that ought not to be made, and the Chair therefore sustains the point of order.

1441. An authorization which under its terms may be ignored by the executive upon whom conferred does not interfere with official discretion and is not legislation, but a proposition to substitute "shall" for "may" in a statute conferring executive discretion is a change of law and is not in order on an appropriation bill.

On February 11, 1920,[1] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Thomas L. Rubey, of Missouri, offered this amendment:

Provided, That $25,000 may be used by the Secretary of Agriculture for the purpose of ascertaining the appraised value of pasturage upon the national forests, which appraised value when determined may, in the discretion of the Secretary of Agriculture, be made the basis of the charge for grazing permits upon such forests.

Mr. Carl Hayden, of Arizona, made the point of order that the amendment proposed to limit the discretion vested in the Secretary of Agriculture and amounted to a change of law.

The Chairman[2] ruled:

The gentleman from Missouri offers an amendment to the pending paragraph by adding after the $105,000 appropriated for that item a proviso that $25,000 may be used by the Secretary of Agriculture "for the purpose of ascertaining the appraised value of pasturage on the national forest, which appraised value when determined may, in the discretion of the Secretary of Agriculture, be made the basis of charge for grazing permits on such forests."

The gentleman from Arizona makes the point of order that this is legislation and a change of existing law. The Chair thinks upon examination of this amendment that the sum set apart is not required to be used by the Secretary of Agriculture for the purpose suggested; and, furthermore, that if the Secretary of Agriculture does use the sum which is made available for that purpose that he is not bound to use the appraised value which is ascertained as the basis of a charge for grazing permits on forests. It seems to the Chair that this amendment is so phrased as not to change or modify the discretion resting in the Secretary of Agriculture by existing law, but simply permits the Secretary, if he so finds, to expend this money, and then within the discretion already given him by the law to make use of it in the manner which the amendment suggests. The paragraph reads—

"For estimating and appraising timber and other resources on the national forests preliminary to disposal by sale or to the issuance of grazing permits."

The Chair thinks that this is one of the resources to which occupancy permits apply, and while the Chair has in mind the various rulings that he made upon this subject when the various items were under consideration yesterday, the Chair can not say that this in any way hampers the discretion which the Secretary of Agriculture has made under existing law, because under the language in which this amendment is phrased it may be ignored by the Secretary of Agriculture entirely; it is a permissive discretion. The Chair thinks the Secretary is authorized now to exercise discretion that is being sought in this amendment, and is within the existing discretion vested in that official. The Chair overrules the point of order.

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[1] Second session Sixty-sixth Congress, Record, p. 2774.

[2] Joseph Walsh, of Massachusetts, Chairman.

Whereupon Mr. Sydney Anderson, of Minnesota, proposed the following amendment to the amendment by Mr. Rubey:

After the figures $25,000," in the first line of the amendment, strike out "may" and insert "shall," and in the next to the last line, strike out the words "may in the discretion of the Secretary of Agriculture" and insert in lieu thereof the word "shall."

Mr. Hayden presented a point of order as follows:

Mr. Chairman, I made the point of order that this is clearly interfering with the discretion of the Secretary of Agriculture by changing the word "may" to the word "shall," Certainly it can not under the guise of an amendment to an amendment be held in order to now proceed to change existing law.

The Chairman [1] sustained the point of order.

1442. A proposition to establish affirmative directions for an executive officer constitutes legislation, and is not in order on a general appropriation bill.

Requirement that an executive make allotments from a lump sum appropriation, and a requirement that he report such allotments, were alike construed as limitations upon official discretion, and held to involve changes of law.

On January 31, 1921,[2] the river and harbor appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

For the preservation and maintenance of existing river and harbor works, and for the prosecution of such projects heretofore authorized as may be most desirable in the interests of commerce and navigation, $15,000,000: *Provided,* That allotments from this sum shall be made by the Secretary of War upon the recommendations of the Chief of Engineers: *Provided further* That at the beginning of the second session of the Sixty-seventh Congress a special report shall be made to Congress by the Secretary of War showing the amount allotted under this appropriation for each work of improvement or maintenance.

Mr. Thomas L. Blanton, of Texas, raised the question of order that each of the provisos affected changes of law and was out of order on an appropriation bill.

The Chairman [3] ruled:

The gentleman from Texas makes the point of order against both of the provisos carried in paragraph 1 of the bill that these provisos contain new legislation, which is not proper within the rule on a general appropriation bill. The first proviso is in form a limitation, but there is a rule that limitations must not interfere with the executive discretion, and this limitation, which provides that allotments from this sum be made by the Secretary of War upon the recommendation of the Chief of Engineers, seems to the Chair to be a clear interference with the discretion of the Secretary of War in that it compels him to obtain the recommendation of one of his officers.

The second proviso is to the effect that the Secretary of War shall submit to Congress a special report covering these matters. There is no provision of law which has been called to the Chair's attention or which the Chair can find which authorizes the making of these special reports. It seems to the Chair, therefore, that this is clearly new legislation carried on a general appropriation bill, and the Chair sustains the point of order as to the two provisos.

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[1] Joseph Walsh, of Massachusetts, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 2348.

[3] James W. Husted, of New York, Chairman.

1443. Provisions including affirmative directions and imposing new duties are in the nature of legislation and are not in order on a general appropriation bill.

A provision that money appropriated for prohibition enforcement be expended in the several States in proportion to population was held to constitute legislation.

On December 10, 1926,[1] during consideration of the Treasury and Post Office Departments appropriation bill, in the Committee of the Whole House on the state of the Union, Mr. Fiorello H. LaGuardia, of New York, offered the following amendment:

Provided further, That the money herein appropriated for the enforcement of prohibition shall be expended in the several States in equal pro rata amounts based on the population of the respective States.

Mr. Martin B. Madden, of Illinois, raised a question of order. The Chairman[2] held:

The rule specifically provides that a limiting amendment must not give affirmative directions and must not impose new duties on the executive whose duty it is to carry out the law. The amendment offered by the gentleman from New York provides for both, and is subject to the point of order. The point of order is sustained.

1444. On December 7, 1928,[3] the Committee of the Whole House on the state of the Union was considering the Treasury and Post Office appropriation bill.

The Clerk read a paragraph making appropriation for the support of the Bureau of Prohibition, including the following proviso:

Provided further, That moneys expended from this appropriation for the purchase of narcotics and subsequently recovered shall be deposited in the Treasury to the credit of the appropriation for enforcement of narcotic and national prohibition acts current at the time of the deposit.

Mr. Fiorello H. LaGuardia, of New York, having submitted a point of order against the proviso, the Chairman ruled it out of order.

Thereupon, Mr. LaGuardia offered this amendment:

Provided, That the money herein appropriated for the enforcement of the provisions of the national prohibition act shall be proportionately expended in each of the several States of the Union, such proportion to be fixed by the Secretary of the Treasury, based on the population and area of the several States.

Mr. William R. Wood, of Indiana, raised a question of order.

The Chairman[4] held:

The amendment offered by the gentleman from New York states that the money used under the enforcement provision shall be expended in each of the several States of the Union, such proportion to be fixed by the Secretary of the Treasury based on the population and area of the several States. This amendment definitely takes away from the Secretary of the Treasury all discretion in enforcing the prohibition act and gives him definite instructions as to what he shall do and such instructions or duties that have not heretofore been authorized by law. There is no doubt that this is new legislation on an appropriation bill, and the point of order is sustained.

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[1] Second session Sixty-ninth Congress, Record, p. 26.

[2] Bertrand H. Snell, of New York, Chairman.

[3] Second session Seventieth Congress, Record, p. 248.

[4] Bertrand H. Snell, of New York, Chairman.

1445. An amendment descriptive of the object for which an appropriation is made is not legislation.

The fact that an item has been carried in appropriation bills for many years does not exempt it from a point of order.

On April 16, 1908,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

Armor and armament: Toward the armor and armament of domestic manufacture for vessels authorized, $7,000,000.

Mr. Gilbert M. Hitchcock, of Nebraska, raised a question of order against the words "domestic manufacture."

The Chairman[2] ruled:

In the opinion of the present occupant of the chair the fact that the item has been in for 20 years, more or less, in the annual appropriation bill providing for the purchase of armor and armament of domestic manufacture, does not affect the item in this bill. And the Chair has some doubt and is inclined to the opinion that the fact that there may be contracts outstanding providing for the purchase of domestic manufacture does not require Congress to make an appropriation for that purpose. But in the rulings, which have been uniform for years, items of appropriations for new vessels in the Navy have been sustained as works or objects in progress. It is within the discretion of Congress to provide, as a part of that work in progress, for the purchase of armament and armor. The present occupant of the chair thinks it would be in order to say red armor or green armament, so long as it is purely descriptive of the article to be purchased and not a change of law, simply describing the article which is to be provided; and Congress having the power to provide for the purchase of armor can provide by describing the kind of armor which shall be purchased. The Chair therefore overrules the point of order.

1446. A limit of cost on a public work may not be made or changed on an appropriation bill.

On April 5, 1910,[3] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Navy yard, New York, N.Y.: Dry Dock No. 4 (limit of cost is hereby increased to $2,500,000), to continue $500,000; improvement of water front, $215,000; to complete cement shed, $1,000; in all, navy yard, New York, N.Y., $716,000.

Mr. William H. Stafford, of Wisconsin, made the point of order that the paragraph changed existing law.

The Chairman[4] ruled:

The gentleman from Wisconsin makes the point of order on the portion of the paragraph which reads as follows:

"The limit of cost is hereby increased to $2,500,000."

In the naval appropriation act of two years ago the limit of cost for this dry dock was fixed at $1,500,000, and this is clearly a legislative change, and therefore is subject to a point of order, and the Chair sustains the point of order on the language inclosed in the parentheses.

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[1] First session Sixtieth Congress, Record, p. 4830.

[2] James R. Mann, of Illinois, Chairman.

[3] Second session Sixty-first Congress, Record, p. 4301.

[4] James R. Mann, of Illinois, Chairman.

1477. On February 22, 1911,[1] the diplomatic and consular appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Henry D. Flood, of Virginia, proposed an amendment as follows:

That the Secretary of State is hereby authorized and directed to secure, by purchase or otherwise, a suitable building for an embassy building in the City of Mexico, and $100,000 or so much thereof as may be necessary, is appropriated for that purpose.

Mr. William H. Stafford, of Wisconsin, having raised a question of order on the amendment, Mr. James R. Mann, of Illinois, said:

Mr. Chairman, I am inclined to think that it would be better not to have the point of order ruled upon. The act that passed the other day, and which is now a law, and a copy of which I hold in my hand, provides that the Secretary of State is authorized to acquire diplomatic and consular establishments for the United States, and so forth, suitable buildings and lands, and that not more than $500,000 shall be expended in this fiscal year under the authorization herein made, and then contains this proviso:

"Provided further, That in submitting estimates of appropriations to the Secretary of the Treasury for transmission to the House of Representatives the Secretary of State shall set forth the limit of cost for the acquisition of sites and buildings and for the construction, alteration, and repair, and furnishing of buildings at each place in which the expenditure is proposed, which limit of cost shall not exceed the sum of $150,000 at any one place, and which limit thereafter shall not be exceeded in any case except by new and express authorization of Congress."

The purpose of that proviso was to secure Congress against improvident appropriations which would not be subject to points of order in the House, and the clear contemplation of the act was that the Secretary of State, in making his annual estimates or special estimates, would transmit to Congress a limit of cost as to each building or site to be acquired, and that is clearly expressed; so that if the Secretary of State had now transmitted an estimate with limit of cost $100,000 for a site and embassy building at Mexico City, that limit of cost could not thereafter be exceeded. There is, however, no provision in the act which would cover the offering of an amendment in either House of Congress.

The act provides that no more than $500,000 shall be expended in any one year, and that sum has not been reached in this appropriation bill, so that that limit of cost would not strike out the paragraph.

The Chairman[2] ruled:

The existing law, act of February 17, 1911, provides that the Secretary of State shall submit estimates of appropriations to the Secretary of the Treasury for transmission to the House of Representatives, and it establishes a limit of cost for those buildings contemplated by the act and provides a method of establishing that limit. In the light of existing law fixing a limitation of cost, and the method of procedure by the Secretary of State, the amendment presented by the gentleman from Virginia is clearly not in order. It is new legislation and therefore unauthorized by existing law. The Chair sustains the point of order.

1448. While a proposition to change a limit of cost is legislation, any provision of cost within that limit is not subject to that point of order.

While a proposition to create a commission is legislation, a provision involving appointment of a commission already authorized by law was held to be in order.

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[1] Third session Sixty-first Congress, Record, p. 3161.

[2] J. Hampton Moore, of Pennsylvania, Chairman.

On January 13, 1917,[1] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was read:

For the transmission of mail by pneumatic tubes or other similar devices, $449,500.

Mr. Peter F. Tague, of Massachusetts, offered an amendment as follows:

After the word "devices," strike out "$449,500" and insert in lieu thereof "$1,061,000, for continuance of service now existing in New York, Philadelphia, Boston, Chicago, St. Louis, and Brooklyn."

Mr. John A. Moon, of Tennessee, made a point of order on the amendment and explained:

A chapter of the Postal Laws and Regulations, section 1374 and following, contains the law on the subject of pneumatic tubes. It must be confessed that this is a question arising about this statute that has not heretofore arisen, so far as my knowledge goes, nor has it been submitted to the decision of the Chair. Here is a simple item in a bill authorized by law providing for pneumatic tubes and other devices. The appropriation is limited in the act to a specific sum of money. This act is a part of the chapter, sections 1374, 1375, and 1376, of the Postal Laws and Regulations. It is a rule of law that all of the laws on a given subject must be construed together, or that part of all laws that have remained intact, notwithstanding amendments that did not by direct affirmative action or by implication repeal the existing law. It was lawful under this act for this House to appropriate under these provisions $1,200,000 for pneumatic tubes. It was unlawful under this act, and is unlawful under this act, for any contract to be made for the pneumatic-tube service or any sum of money appropriated for that purpose until the conditions of the act shall have been complied with. What are the conditions of the act? That the contract for this service shall be subject to the provisions of the Postal Laws and Regulations.

The Chairman[2] ruled:

The amendment offered by the gentleman from Massachusetts proposes an increase in the amount appropriated in the bill for pneumatic-tube service to $1,061,000, and provides that it shall be used for the pneumatic-tube service in the cities of New York, Philadelphia, Boston, Chicago, St. Louis, and Brooklyn. Under the law this pneumatic-tube service is authorized in those particular cities, and the law provides in letting contracts for the pneumatic-tube service in those particular cities the Postmaster General shall observe the law relating to letting of mail contracts except, before a contract shall be entered into for pneumatic-tube service within those name cities, he shall first appoint a commission and that commission shall report recommending that the service be used.

In the opinion of the Chair the amendment does not enlarge the number of cities authorized by law to have pneumatic-tube service. The amendment increases the amount appropriated for this service, but the amount proposed comes within the amount limited by statute. In the opinion of the Chair, if this amendment should prevail, the Postmaster General is not required to use it; but the Postmaster General would have the right, if he saw fit, to appoint another commission, and if that commission recommended the use of the service he would have funds at his disposal to continue the service as provided by law. Therefore the Chair overrules the point of order.

1449. Provision in an appropriation bill limiting cost of a public work, though expiring at the end of the fiscal year, is nevertheless current law, and a proposition to increase the limit so provided is legislation.

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[1] Second session Sixty-fourth Congress, Record, p. 1340.

[2] Charles R. Crisp, of Georgia, Chairman.

On February 9, 1921,[1] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read:

Maintenance, Bureau of Supplies and Accounts: The limitation specified in the naval appropriation act for the fiscal year 1921 on expenditures for pay of chemists and for clerical, inspection, and messenger service in the supply and accounting departments of the navy yards and naval stations and disbursing offices for the fiscal year 1921, under "Maintenance, Supplies and Accounts," is increased by $750,000.

Mr. Thomas L. Blanton, of Texas, made the point of order that the paragraph changed a limit of cost and was legislation.

The Chair[2] held:

It is not contended that this item is authorized by statute law, but at best only by current law as carried in the appropriation bill of 1921. In that bill, in that provision which generally applies to the Bureau of Supplies and Accounts, there is a proviso which runs as follows:

"Provided, That the sum to be paid out of this appropriation, under the direction of the Secretary of the Navy, for chemists and for clerical, inspection, and messenger service in the supply and accounting departments of the navy yards and naval stations and disbursing offices for the fiscal year ending June 30, 1921, shall not exceed $3,500,000."

That is the proviso which this particular item undertakes to amend. It is clear to the Chair that if there is any law at all on the subject, it is current law, and that the intention of this paragraph is to change the existing law.

The Chair is familiar with the rulings holding that items carried in an appropriation bill create law at least for the year in which the appropriation is carried. It seems to the Chair that is an attempt to change the current law, or at least to extend the limitation provided in the current law. It seems to the Chair that if this item in the bill was in order it would be idle to put any limitation on an appropriation bill in current law. The Chair feels compelled to sustain the point of order.

1450. A statute authorizes changes in the limit of cost of public buildings in accordance with estimates submitted by the Bureau of the Budget.

On December 7, 1928,[3] the Committee of the Whole House on the state of the Union was considering the Treasury and Post Office Departments appropriation bill, when the Clerk read:

Washington, D. C., Archives Building: Toward the construction of building and acquisition of site, and the Secretary of the Treasury is authorized to enter into contracts for the entire estimated cost of such building and site, including stacks, for not to exceed $8,750,000, in lieu of $6,900,000 fixed in act of July 3, 1926.

Mr. Eugene Black, of Texas, made a point of order against the change in the limit of cost of the building provided for in the paragraph.

Mr. William R. Wood, of Indiana, in debating the point of order, said:

Mr. Chairman, I will call the gentleman's attention to the Elliott bill, which gives us the very authority he is denying we have:

"Provided further, That unless specifically provided for in the act making appropriations for public buildings, which provision is hereby authorized, no contract for the construction, enlarging, remodeling, or extension of any building or for the purchase of land authorized by this act shall be entered into until moneys in the Treasury shall be made available for the payment of all

[1] Nicholas Longworth, of Ohio, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 2885.

[3] Second session Seventieth Congress, Record, p. 259.

obligations arising out of such contract, and unless the said act making appropriations for public buildings shall otherwise specifically provide, as hereinafter authorized, appropriations shall be made and expended by the Secretary of the Treasury in accordance with the estimates submitted by the Bureau of the Budget."

The act to which the gentleman refers, the act of July 3, 1926,[1] is an appropriation act.

Under the Elliott bill, if the gentleman listened to what I was reading, we have a right to fix the limit of cost ourselves.

It was certainly the intention of Congress to give it. If the language means anything, it means that the appropriations Committee has that right.

The Chairman[2] inquired if the provision in the bill was within the limit submitted by the Bureau of the Budget, and being answered in the affirmative, said:

From a direct reading of that law it is the Chair's opinion that the Committee on Appropriations is within its rights, and he overrules the point of order.

1451. On May 24, 1921,[3] the deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Maintenance, Bureau of Supplies and Accounts: The limitation specified under this head in the naval appropriation act for the fiscal year 1921 on expenditures for pay of chemists and for clerical, inspection, and messenger service in the supply and accounting department of the navy yards and naval stations and disbursing offices for the fiscal year 1921 is further increased by $400,000.

Mr. Thomas L. Blanton, of Texas, made a point of order on the paragraph. The Chairman[4] said:

This raises an interesting and important question for the House, because of the enlarged jurisdiction of the Committee on Appropriations. Prior to the consolidation of the appropriating power of all the committees of the House in the Committee on Appropriations, that committee had exclusive jurisdiction only over certain appropriation bills. Since the appropriating power of the whole House for all of the appropriations of the Government has been given to the Committee on Appropriations, another question arises. The Chair expressed some reluctance on yesterday when the question was immediately before him to reverse a long line of decisions, and resisted the very persuasive arguments made in support of the proposition that the Committee on Appropriations now having exclusive jurisdiction of all appropriations should be enabled to bring in any item in a deficiency appropriation bill that that committee saw fit to bring in. The Chair now has no misgivings on that decision. The matter now before the Chair raises a different question from the one that was before the House on yesterday; but the identical question that is before the Chair at this time was before a Chairman of the Committee of the Whole on the 9th of last February. The identical question was then raised that is before the Chair now, and upon the identical subject. The Chairman at that time held that the item in the deficiency bill was a change of current law, in that it enlarged the limitation that was made in the regular appropriation bill for the maintenance of the Navy for the ensuing year by enlarging the limitation.

In view of the importance of the matter and in view of the fact that the Committee on Appropriations now has jurisdiction of all these matters, the Chair is disposed to let the House decide this question. The Chair sustains the point of order.

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[1] Sec. 344, title 40, supplement 1, U.S. Code.

[2] Bertrand H. Snell, of New York, Chairman.

[3] First session Sixty-seventh Congress, Record, p. 1692.

[4] Philip P. Campbell, of Kansas, Chairman.

1452. While the appropriation of a lump sum for a general purpose authorized by law is in order, a specific appropriation for a particular item included in such general purpose is a limitation on the discretion of the executive charged with allotment of the lump sum and is not in order on an appropriation bill.

Authorization for a general appropriation is not to be construed as authorizing an appropriation for a specific purpose.

On February 24, 1909,[1] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Ambrose Channel, New York: For the purchase of buoys and equipment, $40,000.

Mr. James R. Mann, of Illinois, having raised a point of order on the paragraph, Mr. James A. Tawney, of Minnesota, said:

The lump-sum appropriation for buoys is $926,000. That is a general appropriation for buoys—new buoys, and the repair of old buoys—and all of the expense incident to the maintenance of this service. Now, we simply make a specific appropriation of $40,000 for this particular channel, which precludes them from foraging upon this general appropriation for that purpose. I fail to see on what ground the point of order can be sustained.

The Chairman[2] said:

The Chair thinks that the item is subject to a point of order. The present occupant of the chair is not free from doubt at all, but it seems to be a peculiar case. The gentleman from Minnesota himself made points of order in the last Congress in cases on all fours with this case, in the consideration of the fortification appropriation bill. For instance, Mr. Maynard of Virginia proposed an amendment in this language in the fortification appropriation bill:

"To make all necessary surveys, borings, and other investigations necessary for and the preparation of an accurate detailed estimate of what it would cost to construct proposed artificial islands for fortifications between Capes Charles and Henry, Chesapeake Bay, and to ascertain whether the title to the site of said proposed artificial island can be obtained without expense to the United States, $3,000."

Mr. Smith of Iowa made the point of order, and the point was decided by Mr. Mann of Illinois, the then occupant of the chair. The Chair thinks it would be in order to quote the decision of the gentleman from Illinois, because it shows that the gentleman from Illinois was not free from doubt and expressed the opinion at the time that his decision might be somewhat arbitrary.

"The Chair does not understand that the act of Congress authorizing the appointment of the Endicott Board by law provided that that report should be adopted or that any act of Congress has been enacted since that time specifically adopting the report of the Endicott Board. On the other hand, Congress has provided in annual appropriation bills for the expenditure of money for fortification purposes, usually in general language naming appropriations for purposes general in their nature, to be expended by the War Department.

"In the opinion of the Chair, expressed with some doubt, under the practice of the House, at least, the items in the appropriation bill in general language are probably in order, although the Chair does not undertake to rule upon the question at this time; but the Chair thinks that the introduction of a new item for a work not in progress is not in order, and the Chair therefore sustains the point of order."

It seems as though, under the decisions of this House or in Committee of the Whole in times gone by, general authorizations have been held in order; but specific items—Mr. Hinds says sometimes they have been held in order. The Chair believes probably that is a fair statement

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[1] Second session Sixtieth Congress, Record, p. 3057.

[2] James E. Watson, of Indiana, Chairman.

of the ruling; but after all, it seems that general appropriations have been held in order, but that specific appropriations for specific purposes, even though coming under the general authorization and following the same line, have been held not in order, and the present occupant of the chair really fails to draw the distinction; but following the precedent, he sustains the point of order.

1453. Specific provision for office and salary formerly provided under lump-sum appropriation is not subject to a point of order.

On April 6, 1912,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

For pay of one stenographer and typewriter, $900 per annum, in addition to employees otherwise provided for at the Shawnee Agency.

Mr. Robert H. Fowler, of Illinois, made the point of order that the paragraph created a new office and fixed a salary not authorized by law.

Mr. John H. Stephens, of Texas, explained:

Mr. Chairman, this is the same kind of an item that the Chair ruled on three times yesterday. It has been recently ruled on by other Chairmen. This item provides for the pay of one stenographer and typewriter, $900 per annum, in addition to employees otherwise provided for at the Shawnee Agency. This item is now segregated instead of being included in the lump sum. It creates no new office and no new conditions concerning it, except to transfer it from one part of the bill to another. This is contained in the act of June 7, 1897, a reenactment of the act of 1875, and provides:

"That hereafter not more than $10,000 shall be paid in any one year for salaries or compensation of employees regularly employed at any one agency for its conduct and management, and the number and kind of employees at each agency shall be prescribed by the Secretary of the Interior."

Now, up to the limitation of not exceeding $10,000 the Secretary of the Interior has the authority to employ these people. They are now employed, and now we are simply providing for them specifically out of the lump sum.

The Chairman[2] held:

The gentleman from Illinois in his elaborate and careful presentation has gone into a good many details not relative to the point of order, as the Chair sees it. For instance, he cites, I believe, in the first reference that a clerk in some previous ruling had had a salary increased by $200. That was clearly new legislation and subject to a point of order. Later he gives numerous citations which pertain entirely to employees and departments within the District, and last he gives a citation on the increase of clerks and of salaries. The Chair has held, as he believes he has authority for so doing, that this appropriation for these clerks is already provided in this bill in a lump sum. The committee has not sought to usurp any legislative authority, because it is already authorized by law to do that very thing. The committee has seen fit to subdivide this lump appropriation into subsequent paragraphs and specify thereby what shall be done with the lump-sum appropriation. That, in the opinion of the Chair, is not new legislation, and the Chair therefore overrules the point of order.

1454. Overruling an interpretation formerly observed, it was held that a proposition to make payments for interest and sinking fund from the revenues of the District and the Federal Treasury jointly was a change of law and not in order on an appropriation bill.

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[1] Second session Sixty-second Congress, Record, p. 4379.

[2] Henry A. Barnhart, of Indiana, Chairman.

On February 4, 1913,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Albert S. Burleson, of Texas, appealed from a decision rendered by the Chairman on a question of order.

Pending the putting of the question, the Chairman,[2] by unanimous consent made the following statement:

The gentleman from Texas asks unanimous consent that the Chair make a statement of the situation in order that the Members now present may be apprised of what has been done. Is there objection? [After a pause.] The Chair hears none. The Chair will comply with the order of the committee and accordingly submits the following statement:

While the committee was engaged in consideration of the bill H. R. 28499—the District of Columbia appropriation bill—in the course of the reading of the bill the following paragraph was reached in its order:

"INTEREST AND SINKING FUND.

"For interest and sinking fund on the funded debt, $975,408."

Against that paragraph the gentleman from Kentucky, Mr. Johnson, made a point of order, the point of order being that the paragraph was not authorized by existing law. Debate was had on the point of order, argument being made in favor of the point of order and against the point of order. The gentleman from Kentucky maintained that the District of Columbia was chargeable with the entire interest and sinking fund covered by this paragraph. The first paragraph of the pending bill provides as follows:

"That the half of the following sums named, respectively, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and the other half out of the revenues of the District of Columbia, in full for the purposes following."

The gentleman from Kentucky contended that in view of that paragraph the effect of the paragraph, which the Chair has already read, was to charge the District of Columbia with one-half of the interest and sinking fund and the Treasury of the United States with the other half. That contention was not combated by the gentleman in charge of the bill, but it was contended by gentlemen in charge of the bill that the District of Columbia was liable for only 50 per cent of the interest and, finally, of the principal of the bonds, and that the Federal Government, under the law, was liable for the other half; and that therefore the point of order of the gentleman from Kentucky was not well taken. It was stated and contended by the gentlemen opposing the point of order that every appropriation bill since the act of 1878 had provided, substantially as the present bill provides.

The gentleman from Virginia, Mr. Saunders, read the debate taking place as early as 1879 in which it was contended that the District was chargeable with half of the interest and sinking-fund moneys. On February 4, 1896, the question again arose on a point of order. The paragraph appeared in the District appropriation bill that year as it does now. Mr. De Armond, of Missouri, moved to amend by providing that the entire amount for interest and sinking fund be charged to the District of Columbia. Mr. Chairman Payne, of New York, was presiding; debate was had, and, without taxing the committee with too great details, the gentleman from New York, Mr. Payne, the then Chairman, decided that, in his opinion, under the law the Federal Government was chargeable primarily and liable for one-half of the interest and one-half of the sinking fund, and the amendment, therefore, of the gentleman from Missouri was overruled. Thereafter, on January 25, 1912, the paragraph then being as the paragraph now is, the gentleman from Kentucky raised a point of order upon the same grounds as presented here to-day, which grounds have already been stated to the committee. The gentleman from Tennessee, Mr. Garrrett, was then presiding. Extended arguments were heard and a full decision rendered on that date by the gentleman from Tennessee.

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[1] Third session Sixty-second Congress, Record, p. 2571.

[2] S. A. Roddenbery, of Georgia, Chairman.

The gentleman from Tennessee in effect decided that the Government of the United States was authorized under the law to make an appropriation for the payment of the interest and sinking fund, and that he would not go into the question of the respective liability of the United States Government or the District, respectively, but that that remained for the administration of the appropriate department charged with carrying out the law. Accordingly, the point of order was again overruled. On to-day, when the same item—for interest and sinking fund—was reached, the gentleman from Kentucky renewed the same point of order. Debate was had. The act of 1874 was submitted to-day by gentlemen in the debate. The act of 1878 and the act of 1879, with reference to the proportional appropriations covering both the interest and the sinking fund, were also submitted during the debate. After debate was had, participated in by several gentlemen, the Chair rendered the following decision, sustaining the point of order. It is due the committee for the Chair to state that the decision is not written in full, but was rendered from abbreviated notes, and the Chair will undertake now to repeat, as nearly as he can, the decision as it was made, from the notes.

"In the opinion of the Chair the question presented is more of a legal question than a parliamentary one. In fact, it is essentially a legal question. Once the legal aspect of the matter is determined, the parliamentary conclusion follows and is simple. The Chair has carefully considered the ruling of Mr. Chairman Payne, rendered February 4, 1896, as appears in full in Hinds' Precedents, section 3883, holding that the payment of this item was chargeable half and half to the United States and the District of Columbia. The Chair has also carefully examined the ruling of Mr. Chairman Garrett, holding that the Government of the United States was authorized to appropriate for the payment of the interest and sinking fund, and that it was the duty of the Treasury Department to see that the amount was credited according to law. The Chair has the greatest respect for the opinion of both of these distinguished Chairmen, and dislikes to rule contrary to their decisions; but the Chair, acting in a quasi judicial capacity, feels it is his duty to rule in accordance with his views of what the law is.

"The Chair is of the opinion that the acts of June 11, 1878, and March 3, 1879, authorized the United States to advance sufficient sums to pay the interest and sinking fund of the District of Columbia, but the entire amount is chargeable to the District of Columbia, and, therefore, no part to the United States. In the opinion of the Chair, all sums appropriated by the present bill are disbursed in accordance with the provisions of the bill and not in accordance with some other law, unless specifically so provided in the bill. The only bearing other acts have on the question under consideration is whether or not there is law authorizing the appropriation to be made. Construing the half-and-half provision on the first page and in the first section of this bill, in connection with the item to which the point of order is made, the Chair is forced to the legal conclusion that one-half of the amount under the bill as provided would be charged to the United States and one-half to the District of Columbia. The Chair is of the opinion that under the acts of 1878 and 1879 the entire amount is chargeable to the District of Columbia, and, therefore, is of the opinion that there is no law authorizing the provision incorporated in the bill. Therefore the Chair must sustain the point of order."

The question is, Shall the decision of the Chair stand as the judgment of the committee?

The question being taken, it was decided in the affirmative, yeas 97, noes 33; so the decision of the Chair stood as the judgment of the committee.

1455. A change of the amount of compensation received by Government employees under the law was held to be legislation.

On March 10, 1916,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Rollin B. Sanford, of New York, offered an amendment changing the salary of certain inspectors from $1,600 to $1,800.

[1] First session, Sixty-fourth Congress, Record, p. 3923.

Mr. Byrns, of Tennessee, made a point of order that this proposed a change of law.

The Chairman [1] held:

The gentleman from Tennessee makes the point of order on the amendment offered by the gentleman from New York. In the last legislative, executive, and judicial appropriation bill the salary of some of these inspectors included in the amendment was fixed at $1,600. Section 6 of the current legislative act contains this provision:

"SEC. 6. That all laws or parts of laws to the extent they are inconsistent with rates of salaries or compensation appropriated by this act are repealed, and the rate of salaries or compensation of officers or employees herein appropriated shall constitute the rate of salary or compensation of such officers or employees, respectively, until otherwise fixed by annual rate of appropriation or other law."

The amendment changes existing law which is now in the appropriation bill, and the Chair is constrained to sustain the point of order.

1456. A proposition to increase the number of employees fixed by law was held to be legislation.

On December 16, 1916,[2] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph appropriating for salaries of the Bureau of Labor Statistics was reached, Mr. James P. Buchanan, of Texas, offered an amendment increasing the number of statistical experts in the bureau from four to eight.

Mr. Joseph W. Byrns, of Tennessee, made the point of order that the change was not authorized by law.

In debate, Mr. William H. Stafford, of Wisconsin, said:

Mr. Chairman, this increase differs from an increase of clerks or laborers or assistant messengers or charwomen. It is to increase the official force of the bureau. The four experts that are carried are made in order by a provision in the legislative bill of last year to this effect:

"The officers and employees of the United States whose salaries are herein provided for are established and continued from year to year to the extent they shall be appropriated for by Congress."

If it had not been for that amendment to the legislative act of last year, these statistical experts would have been subject to a point of order, but all four were authorized by this very provision. Four experts have been authorized, and there is no warrant of law that will provide for an additional number of those officials. You might as well say that if we provided for one Secretary of Labor you could provide for two when there was only one authorized. There have been four experts authorized and not eight.

Mr. John J. Fitzgerald, of New York, added:

Mr. Chairman, the only authority for statistical experts in the Bureau of Labor Statistics is a provision in the current legislative act providing for four such places. There is no authority in the organic act of the Labor Department, nor is there any authority or provision in the Revised Statutes under which it is in order to increase the number of clerks in the classified service of the various departments. These employees are established to the number of four by reason of the provision contained in the current legislative bill, which establishes to the number and extent and character the places provided for in that act. Any increase in compensation, any increase in number, is contrary to the number established by law and not in order in the bill under the rules of the House.

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[1] Charles R. Crisp, of Georgia, Chairman.

[2] Second session Sixty-fourth Congress, Record, p. 446.

The Chair will recall that for a number of years there was considerable difficulty encountered in the consideration of the legislative bill, because a good many positions had been from time to time provided on appropriation bills, and in many instances the compensation increased above that fixed in the statute creating the place.

That situation resulted on several occasions in the legislative bill being practically emasculated by points of order being interposed. It was to correct that condition that there was inserted two years ago for the first time a provision in the legislative bill which established at the compensation and to the number the positions carried in the legislative act. That was repeated in the current law, so that every position provided for in the current legislative act is established by law to the number provided and at the compensation provided. The only authority for statistical experts in the Bureau of Labor is in the current legislative act, and that establishes four statistical experts in the Bureau of Labor at a compensation of $2,000 a year. There is no authority for additional ones. Any proposal to increase the number is subject to a point of order.

The Chairman [1] decided:

The law provides for four statistical experts. The amendment proposing to increase it to eight changes existing law, and therefore the Chair sustains the point of order.

1457. An amendment authorizing the President to employ an emergency fund in payment for personal services in the District of Columbia was held to be a change of existing law.

On December 22, 1916,[2] the diplomatic and consular appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read the paragraph appropriating $200,000 to enable the President to meet unforeseen emergencies arising in the Diplomatic and Consular Service. The paragraph included the following proviso:

Provided, That in his discretion the President may employ part of this fund for payment for personal services in the District of Columbia or elsewhere, notwithstanding the provisions of any existing law.

Mr. Joseph W. Byrns, of Tennessee, made the point of order that the proviso proposed a change of existing law.

Mr. William P. Borland, of Missouri, said:

Mr. Chairman, the question has been passed on by the House. The legislative bill of the current year approved May 10, 1916, has a specific provision preventing this very thing. It is not a new question. It provides that none of the money appropriated by any other act shall be used during the fiscal year 1917 for the employment or payment of personal services in the Department of State in Washington, D.C.

In other words, Congress passed on this question at the last session and specifically refused to authorize the provision. It is clearly subject to a point of order.

The Chairman [3] sustained the point of order.

Thereupon Mr. Pat Harrison, of Mississippi, offered this amendment:

Provided, That in his discretion the President may employ any such part of this fund to an amount of not more than $5,000 for payment for personal services in the District of Columbia or elsewhere notwithstanding the provision of any existing law.

A point of order on the amendment was raised by Mr. Borland.

After debate, the Chairman sustained the point of order.

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[1] Charles R. Crisp, of Georgia, Chairman.

[2] Second session Sixty-fourth Congress, Record, p. 711.

[3] John A. M. Adair, of Indiana, Chairman.

1458. A proposition increasing rate of compensation fixed by law is legislation.

On September 18, 1917,[1] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. Adolph J. Sabath, of Illinois, offered an amendment as follows:

That to provide, during the fiscal year 1918, for increased compensation at the rate of 20 per cent per annum to employees who receive salaries at a rate per annum less than $1,200, for increased compensation at the rate of 10 per cent per annum to employees who receive salaries at the rate of not more than $1,800 per annum and not less than $1,200 per annum, and for increased compensation at the rate of 5 per cent per annum to employees who receive salaries at a rate not more than $2,400 per annum and not less than $1,800 per annum, so much as may be necessary is appropriated.

Mr. John J. Fitzgerald, of New York, made the point of order that the amendment proposed a change of law.

Mr. Sabath explained:

Mr. Chairman, this is really an amendment to section 7 of the act of March 3, 1917. In that act we provided an increase of 5 to 10 per cent for Government employees, and I am trying to amend it by increasing it to 20, 10, and 5 per cent.

The Chairman[2] ruled:

Under the statement of the gentleman from Illinois he admits that he seeks to amend existing law by adding new legislation, giving an increase to those that are not now by law entitled to it. The conclusion can not be escaped that it is legislation, and changes existing law, which is not in order on an appropriation bill. The Chair therefore sustains the point of order.

1459. Creation of a commission to investigate advisability of continuing a service formerly authorized but discontinued on expiration of statutory authorization does not authorize appropriation for continuance of the service, and an amendment providing for such appropriation is legislation.

On December 13, 1917,[3] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. J. Hampton Moore, of Pennsylvania, offered this amendment:

For the transmission of mail by pneumatic tubes, or similar devices, $1,101,000.

Mr. John A. Moon, of Tennessee, submitted a point of order against the amendment, and said:

I make a point of order against the consideration of the amendment offered by the gentleman from Pennsylvania for the reason that there is in existence no general law upon which you can base an appropriation for pneumatic tubes. The law provided a period for its expiration, and that time has passed. It provided a method by which its existence might be affected and contracts made under it, and that method was the appointment of a commission by the Post Office Department to inquire into the advisability of the continuation of the contract; and if they advised it, then the power still remains, by virtue of the law, in the Postmaster General to make new contracts. But if it was not so advised, the contract period ended with the expiration of the law. To my mind it is a very simple proposition.

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[1] First session Sixty-fifth Congress, Record, p. 7261.

[2] Charles R. Crisp, of Georgia, Chairman.

[3] Second session Sixty-fifth Congress, Record, p. 265.

Now, that commission was appointed, as a matter of record. It reported adversely. The law expired. There is no power to continue the contract nor to make appropriation for it. But the Congress, in order to save the situation until the 30th of June, 1918, did not reenact the law, but it provided that the terms of the existing contract might be continued until June 30, 1918, and in the meantime the commission to which I referred was to examine into the question and report to Congress. Now, that commission has until the 1st of January to report. If it makes a report at that time there will be plenty of time for Congress to make its appropriation, if it desires. If it makes an adverse report, of course, the power is in Congress to pass a new law on the subject; but to-day there is no law that authorizes an appropriation. The law in existence on the question of pneumatic tubes is the law that created the commission to look into the advisability of the continuation of the pneumatic tubes and the provision that the Postmaster General shall hold them in use until June 30. That is all there is to this question.

After further debate, the Chairman [1] sustained the point of order.

1460. Transfer of employee from lump-sum to statutory roll is not legislation, but creation of new statutory position or increase in salary in making such transfer is subject to point of order.

On January 31, 1919,[2] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph was reached providing salaries for the Bureau of Markets.

Mr. J. Hampton Moore, of Pennsylvania, made a point of order on the following provision in the amendment:

One administrative assistant, $3,000.

The Chairman [3] ruled:

The gentleman from Pennsylvania made a point of order against one item of the bill, to wit, "one administrative assistant, $3,000," on the ground that it was an increase of salary. The gentleman from South Carolina, in charge of the bill, made a statement—which, of course, is accepted as true—that that was a transfer from the lump-sum roll, without any increase in pay to this particular individual, to the statutory roll. The gentleman from Wisconsin argued with considerable force and a great deal of evident sincerity that a transfer could not be made from a lump-sum to a statutory roll in the face of a point of order. It is a novel proposition to the Chair, because in the experience of the present occupant of the Chair he does not recollect that such a point of order was ever raised before.

It was a novel proposition to the Chair, because in all his experience here he has known this kind of transfers to be made repeatedly, but he does not recall that ever before was a point of order raised against it. The Chair has taken some time in looking the matter up. The vital point of the whole proposition is whether a transfer can be made from the lump-sum roll to the statutory roll without change of salary. In the act of March 4, 1913, Thirty-seventh Statutes at Large, page 739, section 7 provides—

"That no part of any money contained herein or hereafter appropriated in lump sums shall be available for personal services at a rate of compensation in excess of that paid for the same or similar services during the preceding fiscal year, nor shall any person employed at a specific salary be hereafter transferred and hereafter paid from a lump-sum appropriation at the rate of compensation greater than such specific salary, and the heads of the departments shall cause this provision to be enforced."

That is all that it is necessary to read. The Chair finds from that an authority to transfer from the so-called statutory salary roll an employee to the lump-sum roll, provided that the salary paid under the lump sum shall not be greater than that he was receiving under the statutory roll.

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[1] Scott Ferris, of Oklahoma, Chairman.

[2] Third session Sixty-fifth Congress, Record, p. 2476.

[3] Courtney W. Hamlin, of Missouri, Chairman.

There is existing law providing for the head of a department to employ, to promote, and to fix salaries of clerks to be paid out of a lump-sum appropriation. The Chair confesses very frankly that the question of a proper holding on this proposition is not free from doubt; but here is authority to transfer from a specified salary to a lump-sum roll, and the Chair is going to hold that there is an implied authority, to say the least, to transfer back from the lump-sum roll to the specified-salary roll, provided the salary is not increased, and that can be done even in the face of a point of order. The fact being taken as true as outlined, and no doubt it is, that this transfer was made from the lump-sum roll to what we know as the statutory roll at the same figure he was drawing under the lump sum, the Chair feels impelled to overrule the point of order.

The Chair would say that he is decidedly of the opinion that no new statutory position can be created by these transfers.

If a transfer from the statutory roll to the lump sum is made it can not be made at a salary greater than that received under the statutory roll, and if a transfer is made from the lump sum back—as the Chair understands the facts are in this case—to the statutory roll, it must be made at a salary not larger than he was receiving under the lump-sum appropriation. If this party was upon the statutory roll at $2,500 and then transferred to the lump-sum roll, he would have to be transferred at a salary of not over $2,500 under the lump sum. That is very plain. The Chair recognizes, and may as well say it, speaking as a Member of the House now, always being opposed to this lump-sum appropriation business, he realizes that great abuses may grow up under such practices. If a man is on the roll and transferred to the lump-sum appropriation, the salary can not be increased above that he was receiving in the first place, but if he was never in the service the law gives the Secretary of Agriculture authority to make appointments, promotions, and changes in salary to be paid out of the lump sum of the several bureaus, divisions, and so forth. He has authority to employ a man and fix the salary. Now, the Chair has held that he thinks he may transfer him back to the statutory roll, providing he does not increase the salary. It is up to the House to determine whether they would reduce that salary or not. The point of order is overruled.

1461. Provision that an appropriation be expended for such purposes as an executive may deem proper was held to constitute legislation, but a provision that it should be disbursed on the approval of the executive was held to be a limitation and in order on an appropriation bill.

On February 11, 1921,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read by the Clerk:

Contingent, Navy: For all emergencies and extraordinary expenses, exclusive of personal services in the Navy Department or any of its subordinate bureaus or offices at Washington, D. C., arising at home or abroad, but impossible to be anticipated or classified, to be expended on the approval and authority of the Secretary of the Navy, and for such purposes as he may deem proper, $50,000.

Mr. Fred A. Britten, of Illinois, made a point of order on the paragraph.

The Chairman sustained the point of order on the ground that the clause "and for such purposes as he may deem proper" was legislation.

Whereupon Mr. Patrick H. Kelley, of Michigan, offered as an amendment the same paragraph with the offending words stricken out.

Mr. Britten made the point of order that the provision that the appropriation should be expended on the approval of the Secretary of the Navy was legislation.

The Chairman[2] held that this provision was a limitation and overruled the point of order.

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[1] Third session Sixty-sixth Congress, Record, p. 3015.

[2] Joseph Walsh, of Massachusetts, Chairman.

1462. A paragraph establishing authorized strength of Marine Corps was held to involve legislation.

On February 6, 1919,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

The authorized enlisted strength of the Marine Corps is hereby increased to 26,297 men, distribution in the various grades to be in the same proportion as is now authorized by law.

Mr. Thomas S. Butler, of Pennsylvania, having made a point of order on the paragraph, Mr. Lemuel P. Padgett, of Tennessee, explained:

Under existing law the permanent authorized strength of the Marine Corps is 17,400. Under the temporary strength the Marine Corps is 75,500. This legislation proposes to increase the permanent strength from 17,400 to 26,297 and to increase until June 30, 1920, the temporary strength to 50,000 instead of 75,000, as it now is.

Mr. Butler said:

The act of 1908 reads:

"Provided, That hereafter the number of enlisted men in the United States Marine Corps shall be such as the Congress may from time to time authorize."

If it had said, "The number of marines that Congress shall hereafter appropriate for," there would be no doubt about it.

The Chairman[2] decided:

The Chair will state that probably on an important matter like this some reason ought to be given. The general rules of the House prevent legislation upon an appropriation bill or anything that changes existing law. Here is a proviso in this act of 1908 which would appear upon the surface to undertake to make law, and it does make some sort of law, but it does not seem to be intelligent law. The Chair thinks the safest course is that we rely upon the general rules of the House in view of the uncertainty of the meaning of the language that is involved in the act of 1908 and therefore the Chair sustains the point of order. The Clerk will read.

1463. A paragraph fixing temporarily the enlisted strength of the Marine Corps and making appropriation for its support was held not to involve legislation.

On March 23, 1920,[3] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

The authorized enlisted strength of the active list of the Marine Corps is hereby established at 27,400, distribution in the various grades to be made in the same proportion as provided under existing law.

Mr. William R. Wood, of Indiana, made a point of order on the paragraph.

The Chairman[4] sustained the point of order and said:

The point of order was made upon this same item, or practically the same item, in the consideration of this bill a year ago, and the point of order was sustained. There is a provision in

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[1] Third session Sixty-sixth Congress, Record, p. 2854.

[2] Finis J. Garrett, of Tennessee, Chairman.

[3] Second session Sixty-sixth Congress, Record, p. 4758.

[4] James R. Mann, of Illinois, Chairman.

the statute of 1908 under the head of "Marine Corps" in the naval appropriation act which provided:

"That hereafter the number of enlisted men in the United States Marine Corps shall be such as the Congress may from time to time authorize."

That expression in the statute of 1908 is a very common expression in many acts providing for bureaus, departments, and so forth. The present occupant of the chair construes the statute, and construes the decision of the Chair in the past, that it does authorize the Congress to appropriate for such force here also and specify the number if it so desires. The present provision in the bill, however, goes beyond that, and the present occupant of the chair thinks it would be construed by the executive officers as constituting permanent legislation, although it does not contain that common word "hereafter," which we frequently use for that purpose. In the current law it is provided:

"That the active list of the Marine Corps is temporarily increased to 27,400."

"Temporarily increased" is left out of the provision in the pending bill, which says:

"The active list of the Marine Corps is hereby established at 27,400."

Which very likely would be construed as permanent legislation. The Chair therefore sustains the point of order.

Thereupon Mr. Thomas S. Butler, of Pennsylvania, offered the following amendment:

The number of enlisted men in the Marine Corps appropriated for by this act is authorized at 27,400.

Mr. Wood having raised a question of order on the amendment, the Chairman overruled the point of order and said:

The Chair quoted before the language of the appropriation act of 1908:

"Provided, That hereafter the number of enlisted men in the United States Marine Corps shall be such as the Congress may from time to time authorize."

Of course, it is quite true the rules of the House can not be changed by an act of Congress in which the House has acquiesced. But this provision in the law was put there under construction of the rules by the House and with knowledge of the construction of the rules by the House. It does not seem to the present occupant of the chair that that provision was in the act of 1908 in order to authorize Congress to legislate upon the subject thereafter, because it does not require the permission of an act of Congress to permit Congress thereafter to legislate in the matter of a legislative act, and it is quite clear to the present occupant of the chair that the purpose of putting that provision in the law was to authorize the fixing of the Marine Corps strength in the appropriation and making the appropriation for its support; and that, without apparently Congress making or fixing the enlisted force in the appropriation act or in some other way, there would be no enlisted force provided for at all, because there is no provision now for an enlisted force and strength beyond the present fiscal year. And this law requires that the enlisted force and strength shall be fixed by Congress or shall be as fixed by Congress. The Chair thinks therefore it would have been perfectly clear for the committee to have included an item making an appropriation for such and such a force of enlisted men in the Marine Corps, in the same manner as Congress and the House under the rules of the House constantly increases the number of clerks for various services, letter carriers, and so forth, in the Post Office Department, and as the legislative bill, coming into the House, constantly carries an increase in the number of clerks in the various departments at fixed salaries; and it is quite within the power of the House under the rules of the House to insert an appropriation for so many enlisted men in the Marine Corps. The Chair thinks that is substantially what this amendment does, and the Chair therefore overrules the point of order.

1464. Provision for an authorized service must be made in the exact terminology of the authorizing statute and the change of a single term in descriptive terminology is subject to a point of order.

On January 22, 1921,[1] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

Salaries, Bureau of Farm Management and Farm Economics: Chief of bureau, $5,000; assistant to the chief, $2,520; executive assistant, $2,250; clerks—2 of class 4, 4 of class 3, 7 of class 2, 2 at $1,320 each, 18 of class 1, 3 at $1,100 each, 4 at $1,080 each, 15 at $1,000 each; clerks or draftsmen—1, $1,440, 1, $1,020; draftsman, $1,200; library assistants—1, $1,440; 1, $900; photographer, $1,400; cartographer, $1,500; messenger or laborer, $720; messenger boys—1, $600; 3 at $480 each; charwomen—1, $480; 5 at $240 each; in all, $89,830.

Mr. Gilbert N. Haugen, of Iowa, raised a question of order against the word "bureau" wherever occurring in the paragraph on the ground that the word "office" and not "bureau" was the authorized term.

After debate, the Chairman[2] sustained the point of order:

Whereupon, on motion of Mr. Sydney Anderson, of Minnesota, by unanimous consent, the word "bureau" was stricken from the paragraph wherever occurring and the word "office" substituted.

1465. A proposition to print Government publications outside the Government Printing Office was held to be a change of law.

On January 22, 1921,[3] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

For the maintenance of a printing office in the city of Washington for the printing of weather maps, bulletins, circulars, forms, and other publications, including the pay of additional employee, when necessary, $11,450: *Provided,* That no printing shall be done by the Weather Bureau that in the judgment of the Secretary of Agriculture, can be done at the Government Printing Office without impairing the service of said bureau.

Mr. Edgar R. Kiess, of Pennsylvania, submitted:

Mr. Chairman, I make the point of order against the paragraph. It repeals existing law. I read from page 1270, volume 40, Statutes at Large:

"That on and after July 1, 1919, all printing and binding, blank-book work, for Congress, the Executive Office, the judiciary, and every executive department, independent office, and establishment of the Government shall be done at the Government Printing Office, except such classes of work as shall be deemed by the Joint Committee on Printing to be urgent or necessary to have done elsewhere than in the District of Columbia, for the exclusive use of any field service outside of said District."

The Chairman[2] decided:

It seems very clear to the Chair, in view of the act approved March 1, 1919, a portion of which was just read by the gentleman from Pennsylvania, that the Chair must sustain the point of order. The Chair, therefore, sustains the point of order and the Clerk will read.

1466. A proposition to make an appropriation payable from funds already appropriated was held not to be in order on an appropriation bill.

The payment from a fund already appropriated of a sum which otherwise would be charged against the Treasury was held not to be a retrenchment of expenditure.

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[1] Third session Sixty-fifth Congress, Record, p. 1895.

[2] Frederick C. Hicks, of New York, Chairman.

[3] Third session Sixty-fifth Congress, Record, p. 1901.

On January 26, 1921,[1] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

For investigations of the chemical and physical character of road materials, for conducting laboratory and field experiments, and for studies and investigations in road design, independently or in cooperation with the State highway departments and other agencies, $148,200, payable out of the administrative fund provided by the Federal aid road act of July 11, 1916, as amended.

Mr. Gilbert N. Haugen, of Iowa, made a point of order against this provision:

payable out of the administrative fund provided by the Federal aid road act of July 11, 1916, as amended.

Mr. Sydney Anderson, of Minnesota, said:

Mr. Chairman, the Federal road act carries a provision making 3 per cent of the amount appropriated under that act available for purposes of administration. That sum is already appropriated. The purpose of this amendment is to make possible the payment for the necessary experimentation carried on in connection with that road construction, payable out of the general sum for administration.

Now, inasmuch as this proviso makes the amount which has already been appropriated under that act usable for another purpose than is provided in the act, I presume that the language—

"Payable out of the administrative fund provided by the Federal aid road act of July 11, 1916, as amended"—

is legislation. Therefore the only question that remains for the Chair to determine is whether this legislation comes within the exceptions to the rule prohibiting legislation upon appropriation bills. That rule reads as follows:

"Nor shall any provision in any such bill"—

Of course, I assume that that contemplates provisions reported by a committee in an appropriation bill—

"or amendments changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

This question has usually arisen in connection with amendments offered from the floor. So far as I have looked through the precedents, I have not discovered any case in which the question has arisen in exactly the same form as it has here. The bill of last year carried the sum of seventy-seven thousand and some odd dollars for this purpose. The provision itself carries $148,000. The effect of the proviso is, of course, to make this money payable out of funds already appropriated, and, therefore, the proviso does effect a reduction in expenditures.

If it had been offered as an amendment to the original paragraph it would be clearly in order, because it does effect a reduction in the amount of money carried in the bill. The only question here is whether the committee can put in such a provision because it would retrench expenditures. If it was offered from the floor as an amendment it would clearly be in order. It seems to me that it ought to be in the power of the committee to put in any provision which would be in order as an amendment.

After debate the chairman[2] sustained the point of order.

1467. While allocation of funds for maintenance and operation of automobiles was held to be in order on an appropriation bill, an appropriation for their purchase was held subject to a point of order.

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[1] Third session Sixty-sixth Congress, Record, p. 2076.

[2] Frederick C. Hicks, of New York, Chairman.

On January 26, 1921,[1] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was read:

Passenger-carrying vehicles: That not to exceed $90,000 of the lump-sum appropriations herein made for the Department of Agriculture shall be available for the purchase, maintenance, repair, and operation of motor-propelled and horse-drawn passenger-carrying vehicles necessary in the conduct of the field work of the Department of Agriculture outside the District of Columbia: *Provided,* That not to exceed $15,000 of this amount shall be expended for the purchase of such vehicles, and that such vehicles shall be used only for official service outside the District of Columbia, but this shall not prevent the continued use for official service of motor trucks in the District of Columbia: *Provided further,* That the Secretary of Agriculture shall, on the first day of each regular session of Congress, make a report to Congress showing the amount expended under the provisions of this paragraph during the preceding fiscal year.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the paragraph proposed legislation.

The Chairman[2] said:

The Chair will quote a provision enacted in the Sixty-third Congress, as follows:

"No appropriation made in this or any other act shall be available for the purchase of any horse-drawn or passenger-carrying vehicle for the service of any executive department or any Government establishment or any branch of the Government service unless specific authority is given therefor."

Whereupon Mr. Sydney Anderson, of Minnesota, offered the following amendment:

Passenger-carrying vehicles: That not to exceed $60,000 of the lump-sum appropriations herein made for the Department of Agriculture shall be available for the maintenance, repair, and operation of motor-propelled and horse-drawn passenger-carrying vehicles necessary in the conduct of the field work of the Department of Agriculture outside the District of Columbia.

Mr. Thomas L. Blanton, of Texas, made the point of order that the amendment proposed legislation on an appropriation bill.

The Chairman ruled:

The Chair fails to see where this amendment appropriates any money. It provides for the purchase of no vehicles. It only provides for their repair, maintenance, and operation and the Chair fails to see where this amendment is in violation of the rule. The Chair therefore overrules the point of order.

1468. A proposition to transfer a sum previously appropriated from one subhead to another in the same enactment was held not to constitute legislation.

May 23, 1921,[3] the deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read:

Not to exceed $20,000 of the amount appropriated for the fiscal year 1921 under the subhead "rations" is transferred and made available for expenditure during that fiscal year under the subhead "Contingent expenses."

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[1] Third session Sixty-sixth Congress, Record, p. 2095.

[2] Frederick C. Hicks, of New York, Chairman.

[3] First session Sixty-seventh Congress, Record, p. 1656.

Mr. James F. Byrnes, of South Carolina, made the point of order that the paragraph amounted to legislation.

The Chairman [1] held:

The committee having authority to appropriate $20,000 out of the Treasury of the United States for a deficiency in rations in this bill, would it not have authority to take that $20,000 out of a fund that is available and carry it for that purpose? The Chair thinks the item of $20,000 could be carried in this bill as a deficiency for the purpose for which the $20,000 is carried in this item. The difference is that it is carried from one purpose to another in this deficiency bill, and the Chair is inclined to think that the Committee on Appropriations, having control over these funds, has authority in this deficiency bill to carry the amount from one item to another as is proposed in this item. The Chair, therefore, overrules the point of order.

1469. A proposition to regulate the public service by transferring funds and activities from one department to another is not in order in an appropriation bill.

On January 28, 1927,[2] the House had ordered to be engrossed and read a third time the State, Justice, Commerce, and Labor appropriation bill.

The bill having been read a third time and the question being on its passage, Mr. Marvin Jones, of Texas, moved that the bill be recommitted to the Committee on Appropriations, with instructions to report the same forthwith, with the following amendment:

Which funds shall be handled and the work done by the appropriate division or divisions of the Department of Agriculture.

Mr. Frederick R. Lehlbach, of New Jersey, having raised a question of order, the Speaker [3] held:

Here is a bill making appropriations for the Department of Commerce, and to an item carrying an appropriation on a certain subject the gentleman from Texas offers a motion to recommit and amend by transferring the appropriation to an entirely different department. The chair doubts very much whether the amendment is germane, in the first place, but, whether it is germane or not, he is of the opinion that it is legislation and therefore sustains the point of order.

Mr. Jones submitted that the item itself, to which the amendment was proposed, was legislation.

The Speaker agreed—

That may be true, but the point of order was not made at that time. The question is on the passage of the bill.

1470. A proposition to transfer funds from one department of the Government to another for purposes authorized by law was held not to involve legislation and to be in order in an appropriation bill.

Provision for transfer to the Bureau of Mines of funds for scientific investigations from departments unable to handle such investigations was held not to constitute legislation.

On January 10, 1928,[4] the Committee of the Whole House on the state of the Union had under consideration the Departments of State, Justice, Commerce, and Labor appropriation bill, when this paragraph was reached.

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[1] Philip P. Campbell, of Kansas, Chairman.

[2] Second session Sixty-ninth Congress, Record, p. 2505.

[3] Nicholas Longworth, of Ohio, Speaker.

[4] First session Seventieth Congress, Record, p. 1278.

During the fiscal year 1929 the head of any department or independent establishment of the Government having funds available for scientific investigations and requiring cooperative work by the Bureau of Mines on scientific investigations within the scope of the functions of that bureau and which it is unable to perform within the limits of its appropriations may, with the approval of the Secretary of Commerce, transfer to the Bureau of Mines such sums as may be necessary to carry on such investigations. The Secretary of the Treasury shall transfer on the books of the Treasury Department any sums which may be authorized hereunder, and such amounts shall be placed to the credit of the Bureau of Mines for the performance of work for the department or establishment from which the transfer is made: *Provided,* That any sums transferred by any department or independent establishment of the Government to the Bureau of Mines for cooperative work in connection with this appropriation may be expended in the same manner as sums appropriated herein may be expended.

Mr. Thomas L. Blanton, of Texas, made the point of order that the provision constituted legislation on an appropriation bill.

The Chairman [1] ruled:

The Chair would inquire of the gentleman from Texas whether a department or an independent establishment of the Government having funds available for scientific work has not the right to expend it for that purpose?

If they pay it to the Bureau of Mines for the work, does it not come within the appropriation?

It is not turning money over to another department to use as it sees fit. If the Navy Department was to do a certain piece of work, it would be authorized to expend the money for that purpose and they could have it done anywhere else. If it hires another department to do the work it is a lawful expenditure of the money.

In addition to what the Chair has said, this refers to money appropriated to be expended by any department or independent establishment of the Government having funds available for scientific investigation, and this is expending the money for the purposes for which it was appropriated. The money is expended by getting the Bureau of Mines to do the work. In other words, it turns over the money appropriated to the Bureau of Mines for the purpose of doing the work for which the money was appropriated. It is not in any sense legislation, but a direction by Congress as to the manner in which the money appropriated by Congress for a certain purpose should be expended by the department. The Chair overrules the point of order.

1471. Transfer of money from one department to another in exchange for materials or services is authorized by law.

An appropriation for helium to be transferred to the Bureau of Mines supplying the gas was held to be in order in the naval appropriation bill.

On February 8, 1929,[2] during consideration of the naval appropriation bill, the Clerk read a paragraph providing for the Bureau of Aeronautics, including the following language:

not to exceed $160,000 for the procurement of helium of which such amounts as may be required may be transferred in advance to the Bureau of Mines.

Mr. Tom D. McKeown, of Oklahoma, made the point of order that the provision was unauthorized by law.

In debating the point of order, Mr. Burton L. French, of Idaho, said:

I think the point of order is not sound for the reason that the Bureau of Mines has been authorized to construct a helium producing plant, and such plant is now completed or practically

[1] Frederick R. Lehlbach, of New Jersey, Chairman.

[2] Second session Seventieth Congress, Record, p. 3095.

completed, at an expenditure of something like $1,600,000 or $1,700,000, including money that has been paid for leases.

The plant is in such shape that in a very short time, possibly 30 days, certainly not more than 90 or 120 days, it can be in operation. The general law provides for the transfer of money from one department to another. I now direct the attention of the Chairman to Forty-first Statutes at Large, page 613, chapter 194, wherein we find the following language:

"SEC. 7. That whenever any Government bureau or department procures, by purchase or manufacture, stores or materials of any kind, or performs any service for another bureau or department, the funds of the bureau or department for which the stores or materials are to be procured or the service performed may be placed subject to the requisitions of the bureau or department making the procurement or performing the service for direct expenditure: *Provided,* That funds so placed with the procuring bureau shall remain available for a period of two years for the purposes for which the allocation was made unless sooner expended."

It seems that there is no question that authority exists for precisely what we have provided for in the bill.

After further debate, the Chairman [1] held the provision to be authorized by the statute cited, and overruled the point of order.

1472. An affirmative provision governing contracts to be made for transmission of mail by pneumatic tubes was held to be legislation.

A limit of cost on a public work may not be made or changed in an appropriation bill.

On December 30, 1922,[2] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when he Clerk read this paragraph:

For the transmission of mail by pneumatic tubes or other similar devices in the city of New York, including the Borough of Brooklyn of the city of New York, at an annual rate of expenditure not in excess of $18,500 per mile of double line of tubes, including power, labor, and all other operating expenses, $513,911.50: *Provided,* That the provisions not inconsistent herewith of the acts of April 21, 1902, and May 27, 1908, relating to the transmission of mail by pneumatic tubes or other similar devices, shall be applicable hereto.

Mr. Arthur B. Rouse, of Kentucky, made the point of order that this was legislation on an appropriation bill.

In discussing the point of order, Mr. Eugene Black, of Texas, said:

If the Chair will hear me, the proviso is clearly legislation upon an appropriation bill. There is no act now that governs the Postmaster General in the making of these contracts. The act of 1902 existed for only four years. The act of 1908 existed for 10 years. These acts went out of existence with the expiration of that period of time. This provision provides as an affirmative fact that these acts shall be reenacted and govern the provisions of contract made under the appropriation voted in the bill, except those provisions of the acts of 1902 and 1908 which conflict with the limitation of $18,500 a mile now carried in this bill. That would in effect be repealing the existing law of 1902 and 1908, which, if it does exist, limits the contract price to $17,000, and to repeal a law and increase the amount for service is new legislation. There can be no question about that. If the contention is correct, that the act of 1902 and the act of 1908 still govern, containing the limitation of $17,000, then unquestionably the proviso in this bill is new legislation, because it repeals the former limitation of $17,000 per mile and raises it to $18,500. In either event it seems to me the point of order will have to be sustained, because it is new legislation.

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[1] Robert Luce, of Massachusetts, Chairman.

[2] Fourth session Sixty-seventh Congress, Record, p. 1164.

The Chairman [1] held:

The Chair doubts whether it is necessary for the Chair to express his opinion on the first part of the section. It is plain to the mind of the Chair that the act of 1902 is still in existence, still a valid enactment. The Chair believes that the language—

"and thereafter only such contracts shall be made as from time to time are provided for in a new appropriation act for the Postal Service"—

is permanent law and makes it possible at any time for the Congress to exercise its discretion as to that particular subject matter. The Chair has looked at these other acts, and while that particular act provided for four-year contracts it was evident that at that time the Congress was of the opinion this was the period for which such contracts should properly extend. In the act of 1908 first an appropriation was made and then authority was given to extend contracts for periods of 10 years, and following in the act of 1916, in a similar portion of the act, an appropriation of $976,000 was made and the Postmaster General was authorized to extend existing contracts until March 4, 1917. There was some subsequent legislation on that subject, among other things a commission was appointed to investigate the matter and make report on or before March 4, 1918. But in every instance the Chair believes Congress was exercising a power that it still has; a power to make appropriations for the pneumatic-tube service under the original act of 1902, which has never been repealed, either expressly or by implication. But the gentleman from Texas urges the proposition that the proviso is legislation. The Chair thinks it is. The Chair can not escape the reasoning which the gentleman from Texas urges as to the proviso, and therefore the point or order is sustained.

Thereupon Mr. C. Bascom Slemp, of Virginia, offered the following amendment:

Strike out all except "For the transmission of mail by pneumatic tubes or other similar device, in the city of New York, including the Borough of Brooklyn of the city of New York, at an annual rate of expenditure not in excess of $18,500 per mile of double line of tubes, including power, labors and all other operating expenses, $513,911.50."

Mr. Black again raised the question of order.

The Chairman ruled:

If the Chair is correctly advised, that the act of 1902 is permanent legislation, then the provision of that act applies. That provision is:

"No contract shall be made in any city providing for 3 miles or more of double lines of tube which shall involve an expenditure in excess of $17,000 per mile per annum, and said compensation shall cover power, labor, and all operating expenses."

The Chair assumes that the kind of service that is to be rendered under this bill is the same kind of service as is mentioned in the section just read. If that is true, a limitation of $17,000 per mile is made by the substantive law. This bill makes a limit possible of $18,500. Surely that changes the law itself and is legislation. The Chair therefore sustains the point of order.

1473. Where the law directed the award of contracts to the lowest bidder an amendment proposing to award contracts to the two lowest bidders was ruled out of order.

On December 12, 1932,[2] the Treasury and Post Office Departments appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read an item carrying the following proviso:

Provided further, That in order to foster competition in the manufacture of distinctive paper for United States securities, the Secretary of the Treasury is authorized, in his discretion, to split

[1] William J. Graham, of Illinois, Chairman.

[2] Second session Seventy-second Congress, Record, p. 349.

the award for such paper for the fiscal year 1934 between the two bidders whose prices per pound are the lowest received after advertisement, but not in excess of the price fixed herein.

Mr. Edward W. Goss, of Connecticut, made the point of order that in view of the law requiring the awarding of contracts to the lowest bidder, the proviso providing for awards to the two lowest bidders involved legislation.

After debate, the Chairman [1] sustained the point of order.

1474. An appropriation for a specific method of transmitting mail, in the absence of any prior legislation providing therefor, was held to be subject to a point of order although general transmission of the mail is authorized by law.

On February 12, 1924,[2] the Treasury and Post Office Departments appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

For the operation and maintenance of the airplane mail service between New York, N.Y., and San Francisco, Calif., via Chicago, Ill., and Omaha, Nebr., including necessary incidental expenses and employment of necessary personnel, $1,500,000.

Mr. Louis C. Cramton, of Michigan, made the point of order that the appropriation was not authorized by law.

The Chairman [3] decided

The paragraph is very plainly new legislation, and former chairmen of committees have so held. If the gentleman from New York can point to some law which authorizes the activity the Chair will overrule the point of order. The point of order is sustained.

1475. The mere increase of the amount carried by an appropriation bill is not legislation.

On February 17, 1914,[4] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

For support and education of 325 Indian pupils at the Indian school, Mount Pleasant, Mich., including pay of superintendent, $56,275; for general repairs and improvements, $5,000; in all, $61,275.

Mr. Carl E. Mapes, of Michigan, offered an amendment increasing the number of pupils from 325 to 350, involving a proportionate increase in expenditure.

Mr. John H. Stephens, of Texas, objected that the amendment provided new legislation.

The Chairman [5] held that the amendment provided for a mere increase in the amount carried by the bill and was not subject to a point of order.

1476. Provisions in the pending bill, though read and passed by the committee, are not construed as "existing law" within the purview of clause 2 of Rule XXI.

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[1] Thomas S. McMillan, of South Carolina, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 2317.

[3] Everett Sanders, of Indiana, Chairman.

[4] Second session Sixty-third Congress, Record, p. 3579.

[5] Joseph W. Byrns, of Tennessee, Chairman.

On January 24, 1921,[1] the Agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

For continuing the necessary improvements to establish and maintain a general experiment farm and agricultural station on the Arlington estate, in the State of Virginia, in accordance with the provisions of the act of Congress approved April 18, 1900, $20,500: *Provided,* That the limitations in this act as to the cost of farm buildings shall not apply to this paragraph.

Mr. Thomas L. Blanton, of Texas, made the point of order that the proviso in the paragraph proposed a change in the limitation upon cost of buildings constructed by the department provided in a paragraph on page 25 of the pending bill previously read and passed by the committee.

The Chairman[2] ruled:

This proviso making the limitation, page 25, is not a limitation in existing law, but is only a limitation in this particular bill, which has not yet become a law. The Chair rules that this is not subject to a point of order. The Chair overrules the point of order.

1477. Appropriations provided by the supply bills are for the fiscal year and proposals to appropriate for the calendar year are not admissible.

On May 17, 1932,[3] the Committee of the Whole House on the state of the Union had under consideration the War Department appropriation bill.

The Clerk read a paragraph containing this proviso:

Provided, That no part of this appropriation shall be available for the pay of any cadet appointed from enlisted men of the Army for admission to the Military Academy in the class entering in the calendar year 1933 who has not served with troops in the Regular Army for at least nine months.

Mr. Edward W. Goss, of Connecticut, made the point of order that the appropriation proposed was for the calendar year and as the general appropriation bills were limited to provisions for the fiscal year, the paragraph was not in order.

The Chairman[4] having sustained the point of order, Mr. Collins offered the paragraph as an amendment in this form:

Provided, That no part of this appropriation shall be available for the pay of any cadet appointed from enlisted men of the Army for admission to the Military Academy in the class entering in the fiscal year 1933 who has not served with troops in the Regular Army for at least nine months.

There was no objection.

1748. A provision prescribing qualifications available only through enactment of additional legislation was held not to be in order on an appropriation bill.

On January 28, 1921,[5] the diplomatic and consular appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

Chinese assistant secretary of embassy to China, to be appointed from the corps of student interpreters, $4,000.

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[1] Third session Sixty-sixth Congress, Record, p. 1980.

[2] Frederick C. Hicks, of New York, Chairman.

[3] First session Seventy-second Congress, Record, p. 10457.

[4] Clifton A. Woodrum, of Virginia, Chairman.

[5] Third session Sixty-sixth Congress, Record, p. 2175.

Mr. Thomas L. Blanton, of Texas, raised a question of order on the provision requiring the selection of the assistant secretary from the corps of student interpreters on the ground that a corps of student interpreters was not authorized by law.

After debate, the Chairman [1] sustained the point of order.

1479. A provision for the purchase and distribution of seeds was held to be legislation and not in order on an appropriation bill.[2]

On January 3, 1923,[3] the Agricultural appropriation bill had been ordered to be engrossed and was read a third time, when Mr. Charles D. Carter, of Oklahoma, moved to recommit the bill to the Committee on Appropriations, with instructions to that committee to report it back to the House forthwith with the following amendment:

Purchase and distribution of valuable seeds: For purchase, propagation, testing, and congressional distribution of valuable seeds, bulbs, trees, shrubs, vines, cuttings, and plants; all necessary office fixtures and supplies, fuel, transportation, paper, twine, gum, postal cards, gas, electric current, rent outside of the District of Columbia, official traveling expenses, and all necessary material and repairs for putting up and distributing the same; for repairs and the employment of local and special agents, clerks, assistants, and other labor required, in the city of Washington and elsewhere, $360,000. And the Secretary of Agriculture is hereby directed to expend the said sum, as nearly as practicable, in the purchase, testing, and distribution of such valuable seeds, bulbs, shrubs, vines, cuttings, and plants, the best he can obtain at public or private sale, and such as shall be suitable for the respective localities to which the same are to be apportioned, and in which same are to be distributed as hereinafter stated; and such seeds so purchased shall include a variety of vegetable and flower seeds suitable for planting and culture in the various sections of the United States: *Provided,* That the Secretary of Agriculture, after due advertisement and on competitive bids, is authorized to award the contract for the supplying of printed packets and envelopes and the packeting, assembling, and mailing of the needs, bulbs, shrubs, vines, cuttings, and plants, or any part thereof, for a period of not more than five years nor less than one year, if by such action he can best protect the interests of the United States. An equal proportion of five-sixths of all seeds, bulbs, shrubs, vines, cuttings, and plants shall, upon their request, after due notification by the Secretary of Agriculture that the allotment to their respective districts is ready for distribution, be supplied to Senators, Representatives, and Delegates in Congress for distribution among their constituents, or mailed by the department upon the receipt of their addressed franks, in packages of such weight as the Secretary of Agriculture and the Postmaster General may jointly determine: *Provided, however,* That upon each envelope or wrapper containing packages of seeds the contents thereof shall be plainly indicated, and the Secretary shall not distribute to any Senator, Representative, or Delegate seeds entirely unfit for the climate and locality he represents, but shall distribute the same so that each Member may have seeds of equal value, as near as may be, and the best adapted to the locality he represents: *Provided also,* That the seeds allotted to Senators and Representatives for distribution in the districts embraced within the twenty-fifth and thirty-fourth parallels of latitude shall be ready for delivery not later than the 10th day of January: *Provided also,* That any portion of the allotments to Senators, Representatives, and Delegates in Congress remaining uncalled for on the 1st day of April shall

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[1] Horace M. Towner, of Iowa, Chairman.

[2] Overruling decision by Committee of the Whole, second session Sixty-seventh Congress, p. 3640; decision by Chairman Frederick C. Hicks, of New York, fourth session Sixty-seventh Congress, p. 884; Hinds' Precedents, section 3895.

[3] Fourth session Sixty-seventh Congress, Journal, p. 90; Record, p. 1204.

be distributed by the Secretary of Agriculture, giving preference to those persons whose names and addresses have been furnished by Senators and Representatives in Congress and who have not before during the same season been supplied by the department: *And provided also,* That the Secretary shall report, as provided in this act, the place, quantity and price of seeds purchased, and the date of purchase; but nothing in this paragraph shall be construed to prevent the Secretary of Agriculture from sending seeds to those who apply for the same. And the amount herein appropriated shall not be diverted or used for any other purpose but for the purchase, testing, propagation, and distribution of valuable seeds, bulbs, mulberry and other rare and valuable trees, shrubs, vines, cuttings, and plants.

Mr. Thomas L. Blanton, of Texas, made the point of order that the amendment proposed legislation on an appropriation bill.

The Speaker [1] said:

The Chair is aware, as all the membership of the House is probably aware, that this question has come up many times in Committee of the Whole. The Chair thinks that every Chairman of the Committee of the Whole who has given his opinion upon it as a problem of parliamentary law has ruled that it is not in order. The Chair thinks that every Member of the House who will give the matter his unbiased attention will admit that it is not in order. It seems to the Chair perfectly clear, and the gentleman from Oklahoma does not argue that it is in order under the rules of parliamentary law, but merely argues that the Committee of the Whole has several times decided by a majority vote that it is in order. He offers no other argument as to its being in order. The Chair thinks probably he is wise in that, because the Chair does not see how such an argument can be sustained.

The Chair thinks he ought to suggest that preserving the authority and binding force of parliamentary law is as much the duty of each Member of the House as it is the duty of the Chair, that the rights of every one of us here depend upon it, and that each Member ought to vote on such a question, not as his interest or desires in respect to the particular subject may sway him, but as he thinks is really the law. It is unquestionably true that several times the Committee of the Whole House has overruled the decision of the Chairman of that committee and has held that an amendment like this is in order. That, however, has never been done in the House. If the House should take that action, of course the Chair would bow to the opinion of the House and follow it; but until then the Chair thinks that he is bound to follow the rules of parliamentary law, and the Chair thinks the same duty rests upon every individual Member of the House. The Chair sustains the point of order.

Mr. John W. Langley, of Kentucky, having appealed from the decision of the Chair, Mr. Sydney Anderson, of Minnesota, moved to lay the appeal on the table.

The question being taken, on a roll call there were yeas 173, nays 85, and the appeal was laid on the table.

1480. A Senate amendment to an appropriation bill which does not propose legislation is not subject to amendments proposing legislation.

On January 28, 1927,[2] the House was considering the Senate amendments to the Executive Office and independent offices appropriation bill, reported back by the committee of conference without agreement.

The Clerk read Senate amendment No. 3, permitting the fixing of salaries of employees in the reporting service of the Board of Tax Appeals and proposing:

including personal services and stenographic reporting services.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Sixty-ninth Congress, Record, p. 2508.

Mr. William R. Wood, of Indiana, moved that the House recede from its disagreement to the Senate amendment and agree to the same with the following amendment:

Personal services (including from the date of approval of this act, 12 employees at rates of compensation to be fixed by the board, not in excess of $7,500 each per annum), stenographic reporting services to be obtained on and after the passage of this act by the board, in its discretion, through the civil service or by contract, or renewal of existing contract, or otherwise.

Mr. Eugene Black, of Texas, raised a question of order and said:

Mr. Speaker, I make the point of order that the amendment is not germane to the Senate amendment, and that it is legislation on an appropriation bill. I call the Speaker's attention to the fact that the revenue act of 1926 provides that the employees of the Board of Tax Appeals shall be employed under the civil service law, and that their salaries shall be fixed under the reclassification act of 1923. The Senate amendment here is in entire accord with that law, because it says, "including personal services and stenographic reporting services." That is perfectly proper. It would be all right for the House to concur in that amendment because their salaries would be fixed in accordance with the reclassification act, but now the provision that has been offered by the gentleman from Indiana would allow Congress to fix the salaries, notwithstanding the reclassification act of 1923. That is to say, it will allow the Board of Tax Appeals to fix them within the limitation of $7,500. I contend that that would be clearly a violation of the rules of the House.

The Speaker [1] sustained the point of order.

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[1] Nicholas Longworth, of Ohio, Speaker.

Chapter CCXXIV. [1]

GERMANE LEGISLATION RETRENCHING EXPENDITURES IN APPROPRIATION BILLS.

1481. An exception to the rule forbidding legislation in a general appropriation bill admits germane legislation retrenching expenditures.

Section 2 of Rule XXI provides:

Nor shall any provisions in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

The original rule adopted in 1835 [2] forbidding legislative provisions in general appropriation bills gradually became construed through a long line of decisions to admit amendments increasing salaries but as excluding amendments providing for decreases. To remedy this defeat the House in 1876 [3] on motion of Mr. William S. Holman, of Indiana, amended to the rule to include the following:

nor shall any provision in any such bill or amendment thereto, changing existing law, be in order except such as, being germane to the subject-matter of the bill, shall retrench expenditures.

There was some difference of opinion as to the efficacy of the rule in this form and in the revision of 1880 [4] the provision was omitted in the report of the Committee on Rules. The House declined to approve the omission and after extended debate readopted the provision as follows:

Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures by the

[1] Supplementary to sections 3885–3892 of Chapter XCVII.

[2] First session Twenty-fourth Congress, debates, pp. 1949–57.

[3] First session Forty-fourth Congress, Record, p. 445

[4] Second session Forty-sixth Congress, Congressional Record, p. 201.

reduction of the number and salary of the officers of the United States, by the reduction of the compensation any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

In this form the provision remained unchanged until 1885 [1] when it was again omitted in response to objections that it admitted legislation in the form of riders tending to nullify the effect of the rule as a whole.

The provision was again inserted in the rule for the Fifty-second and Fifty-third Congresses and again discontinued from the Fifty-fourth to the Sixty-first Congresses, inclusive. With the adoption of the rules for the Sixty-second Congress in 1911 [2] it was again incorporated in the rule in its present form and is now a permanent part of the procedure of the House.

1482. The rule admitting legislation to a general appropriation bill when germane and effecting retrenchment of expenditures applies to general appropriation bills only.

On September 23, 1919,[3] the House was in the Committee of the Whole House on the state of the Union for the consideration of the joint resolution (H.J. Res. 208) authorizing the Secretary of War to expend $116,000 for the support of the Army at Camp Hunphreys, Virginia, when Mr. Joseph G. Cannon, of Illinois, offered this amendment:

Strike out "$116,000"and insert in lieu thereof "$115,900: *Provided,* That the Engineer school shall be returned to its former location at Washington Barracks by the end of the present fiscal year."

Mr. Charles Pope Caldwell, of New York, raised a question of order on the amendment.

Mr. Cannon submitted that the amendment was in order as a retrenchment of expenditure.

The Chairman [4] held:

The bill provides that the Secretary of War is authorized to expend a certain sum of money for the completion of bungalow quarters, now partially constructed, including gravel roads, walks, sidewalks, sewers, electric-light lines, heating, water lines, painting, clearing, brushing, grading, sodding, and alteration of existing buildings and miscellaneous incidental construction incident thereto, $116,000.

The amendment proposes to reduce the appropriation to $115,900, with the following proviso:

"That the engineer school shall be returned to its former location at Washington Barracks by the end of the present fiscal year."

The Holman rule applies only to general appropriation bills. It can not be invoked as to this bill. So far as the question of germaneness is concerned, it is clear to the Chair that under section 7 of Rule XVI, which reads as follows:

"And no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment"—

the amendment is not germane. The point of order is sustained, and the Clerk will read.

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[1] First session Forty-ninth Congress, Record, p. 333.

[2] First session Sixty-second Congress, Record, p. 80.

[3] First session Sixty-sixth Congress, Record, p. 5799.

[4] J. Hampton Moore, of Pennsylvania, Chairman.

1483. To come within the exception under which legislation is in order on an appropriation bill, an amendment must be germane, must retrench expenditure, and the language in which it is embodied must be essential to the accomplishment of the retrenchment.

On February 29, 1932,[1] the Treasury and Post Office Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the following paragraph was reached:

The offices of comptrollers of customs, surveyors of customs, and appraisers of merchandise, 29 in all, with annual salaries aggregating $153,800, are hereby abolished. The duties imposed by law and regulation upon comptrollers, surveyors, and appraisers of customs, their assistants and deputies are hereby transferred to, imposed upon, and continued in positions, now established in the Customs Service.

Mrs. Florence P. Kahn, of California, made the point of order that the paragraph included legislation.

Mr. Joseph W. Byrns, of Tennessee, justified the language of the paragraph on the ground that it provided for a reduction in the number and salaries of officers of the United States and was admissible as a retrenchment.

The Chairman[2] overruled the point of order and said:

It would seem to the Chair that this paragraph is safely in the Holman rule. To be in order under the Holman rule three things must occur—first, it must be germane; second, it must retrench expenditures; and, third, the language embodied in the paragraph must be confined solely to the purpose of retrenching expenditures.

The Chair finds upon examination of the paragraph that it is germane to the portion of the bill wherein it is inserted. The paragraph on its face definitely reduces the number of officers of the United States by 29 and thereby saves $153,800, thus retrenching expenditures.

The remaining question for the Chair to determine is whether there is any language in the paragraph that is legislation which does not contribute to the retrenchment of the $153,800.

The Chair has examined the paragraph with considerable care in order to determine whether the legislation is coupled up with and essential to the reduction of money. It is apparent to the Chair that all the legislation to be found in the paragraph is necessary to accomplish the purpose of retrenching expenditures. The Chair thinks that the paragraph clearly comes within the provisions of the Holman rule and overrules the point of order.

1484. An amendment establishing a minimum rate of compensation was held not to provide for a reduction of expenditures.

On May 17, 1892,[3] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Salaries and commissions of registers and receivers: For salaries and commissions of registers of land offices and receivers of public moneys at district land offices, at not exceeding $3,000 each, $55,000.

Mr. John A. Pickler, of South Dakota, offered the following amendment:

Amend by adding after the word "each" the words "and not less than $1,000 each."

Mr. William S. Holman, of Indiana, having made the point of order on the amendment, the Chairman,[4] after debate, sustained the point of order.

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[1] First session Seventy-second Congress, Record, p. 4957.

[2] Edgar Howard, of Nebraska, Chairman.

[3] First session Fifty-second Congress, Record, p. 4337.

[4] Rufus E. Lester, of Georgia, Chairman.

1485. On February 16, 1933,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union when Mr. John J. Cochran, of Missouri, offered this amendment:

No appropriation contained in this act shall be available for the payment for personal services, either by direct employment of under contract, at a rate of compensation which is less than 35 cents per hour.

Mr. Thomas L. Blanton, of Texas, raised the question of order that the amendment provided legislation on an appropriation bill.

The Chairman[2] sustained the point of order on the ground that the amendment proposed legislation without retrenchment of expenditure.

1486. A provision that no part of an appropriation should be expended for a designated purpose was held to retrench expenditure, but a proposal, in effect repealing the law under which appropriations for that purpose were authorized, was held not to come within the exception.

On June 3, 1892,[3] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read the paragraph providing for the transportation of foreign mails, when Mr. William S. Holman, of Indiana, offered this amendment:

Provided further, That no part of the money hereby appropriated shall be expended in the carrying out of any contract or contracts made hereafter under the provisions of the act entitled "An act to provide for ocean mail service between the United States and foreign ports, and to promote commerce," approved March 3, 1891.

Mr. Nelson Dingley, jr., of Maine, raised a question of order on the amendment.

After debate, the Chairman[4] held the amendment was in order under the exception to the rule admitting a limitation on expenditure.

Whereupon Mr. George W. Fithian, of Illinois, proposed the following amendment:

Provided, That no further contract shall be entered into by the Postmaster General under said act.

A point of order on the amendment having been raised by Mr. Dingley, the Chairman[5] ruled:

The amendment offered by the gentleman from Illinois changes existing law because it repeals the power conferred upon the Postmaster General by the first section of the act of March 3, 1891. As an amendment to an appropriation bill it must be germane to the subject matter and must retrench expenditure in one or more of the methods pointed out in the rule. The Chair is of the opinion that it does not do this unless by inference, and therefore is not in order.

1487. A proposition to discontinue payment of pensions to a specified class of pensioners is patently a proposition to reduce expenditures.

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[1] Second session Seventy-second Congress, Record, p. 4266.

[2] Anning S. Prall of New York, Chairman.

[3] First session Fifty-second Congress, Record, p. 5004.

[4] John A. Buchanan, of Virginia, Chairman.

[5] William L. Wilson, of West Virginia, Chairman.

On February 16, 1893,[1] the bill (H. R. 10345), a general pension bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. Ashbel P. Fitch, of New York, offered an amendment as follows:

That from and after July 1, 1895, no pension shall be paid to a nonresident who is not a citizen of the United States, except for actual disabilities incurred in the service.

Mr. Augustus N. Martin, of Indiana, made the point of order that it was legislation on an appropriation bill.

The Chairman[2] ruled:

Under the ruling, made when this pension appropriation bill was before the first session of this Congress, an amendment to the pension appropriation bill tending to increase the class of persons prohibited from the benefit of pension law is in order, because its effect will be to reduce expenditures. The Chair overrules the point of order.

1488. On February 1, 1912,[3] the pension appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

From and after July 1, 1912, no pension shall be paid to a nonresident who is not a citizen of the United States except for actual disabilities incurred in the service.

Mr. James R. Mann, of Illinois, made the point of order that the paragraph was legislation on an appropriation bill.

Mr. Charles L. Bartlett, of Georgia, declared the amendment was in order under the Holman rule and cited a former decision to that effect made by Chairman William L. Wilson, of West Virginia, in the Fifty-second Congress.

The Chairman[4] said:

The Chair read carefully the decision of Mr. Wilson and has also read the arguments that were made which lead up to that decision. The Chair is constrained to believe that the ruling then enunciated as the only ruling that could be made under the rules of the House. The Chair is still of that opinion and, therefore, overrules the point of order.

1489. A paragraph which did not directly reduce expenditure but which unmistakably contributed to that end was held to retrench expenditures and to be in order on an appropriation bill under the exception to the rule.

The erroneous reference of a public bill remaining uncorrected, it is too late to raise the question of jurisdiction when reported by the committee to which referred.

The title of a bill is not conclusive as to contents or purport of a bill and is not considered in passing upon points of order relating to provisions of the bill proper.

On February 1, 1912,[5] the pension appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

The pensioners in the first group shall be paid their quarterly pension on January 4, April 4, July 4, and October 4 of each year; the pensioners in the second group shall be paid their

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[1] Second session Fifty-second Congress, Record, p. 1708.

[2] William L. Wilson, of West Virginia, Chairman.

[3] Second session Sixty-second Congress, Record, p. 1628.

[4] Charles F. Booher, of Missouri, Chairman.

[5] Second session Sixty-second Congress, Record, p. 1648.

quarterly pensions on February 4, May 4, August 4, and November 4 of each year, the pensioners in the third group shall be paid their quarterly pensions on March 4, June 4, September 4, and December 4 of each year.

The Secretary of the Interior is authorized to cause payments of pension to be made for the fractional parts of a quarter which may be made necessary by the transfer of a pensioner from one group to another.

Mr. S. F. Prouty, of Iowa, made the point of order that the paragraph was not germane to the subject matter of the bill, repealed existing law, and violated clause 2 of Rule XXI.

The Chairman [1] ruled:

The gentleman from Iowa makes the point of order to the entire provision of section 2, and bases it upon two grounds. The first is that the section was a whole is not germane to the subject matter of the bill as disclosed in its title. It is not necessary, as I understand, and no authority has been called to the attention of the Chair that it is necessary to disclose all the provisions of a bill in its title. The Chair holds on the first ground that it would not be necessary for the title of the bill to disclose all the provisions of the bill and therefore overrules the point of order on that ground.

Now, the second ground is that it repeals existing law without making any reduction of expenditures as contemplated and provided for in the latter part of clause 2, Rule XXI, of this House.

Perhaps standing alone and not considering the other provisions of this bill that point of order would be well taken. But, as has been well said by several gentlemen arguing the point of order, the bill must be judged by all the provisions that have gone before this one. It will not do to put too narrow a construction on the rule. We might so narrowly construe the rules that the House could not legislate at all. There must be some life and vitality to the rules of the House.

Rule XXI was enacted for the purpose of preventing general legislation upon appropriation bills. Since it has been in force it has received a good many constructions. It has been passed upon by some of the ablest Speakers and parliamentarians in Congress, and I think we can safely follow the construction placed on the rules by former occupants of the chair. I want first to come to the proposition of the gentleman from Iowa, that the committee that reported this bill had no jurisdiction, and consequently, for that reason, the point of order must be sustained.

That precise question has been decided, and I will read the entire decision so that the committee may see just what position we are in so far as that question is concerned.

Section 4365 of the fourth volume of Hinds' Precedents reads as follows:

"4365. According to the later practice of the House the erroneous reference of a public bill, if it remain uncorrected, in effect gives jurisdiction to the committee receiving it."

I take it that if this bill was erroneously referred originally to the Committee on Appropriations, if we follow the decision of Mr. Speaker Crisp it is too late now to raise that point of order, and the Chair so holds.

As to the proposition that it must be shown on the face of section 2 that it reduces the expenditures of the Government, in order to bring it within the Holman rule, that is the real question at issue. I do not think the rule should be so narrowly construed. This section is part of the general legislation of the bill reducing expenditures, and in the Fifty-second Congress this point was debated at length, and two of the men who debated it were Mr. Holman himself, the author of the rule, and Mr. Dingley, of Maine.

I have read their arguments with a great deal of interest and care, and knowing that this point of order was to be made, I took the pains to read up very thoroughly on the question.

I may say to the committee that in arriving at my conclusion in this matter I followed very closely the very able arguments of Mr. Dingley and Mr. Holman, and I have come to the conclusion which I will now state to the committee:

Rule XXI provides that before a proposition changing existing law shall be in order on an appropriation bill it must be germane to the subject matter of the bill and tend to retrench expenditures, and such reduction must be apparent on the face of the bill.

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[1] Charles F. Booher, of Missouri, Chairman.

It is conceded that the new legislation in the bill reduces the number of employees, thereby tending to reduce expenditures, and is germane; but it is contended that the new legislation in subsequent provisions of the bill is subject to a point of order on the ground that such new legislation is a change of existing law, and for that reason is improperly in an appropriation bill and obnoxious to the provisions of Rule XXI.

That there is a reduction of the number of employees of the Government and a consequent reduction of expenditures is apparent on the face of the bill, and if the subsequent provisions of the bill are necessary to carry into effect the prior object—reduction of expenses—they would be germane to the bill and not subject to the point of order. That the only purpose and effect of the new legislation is to give force and effect to the provisions of the bill which tend to reduce the expenditures of the Government must be apparent to all.

The Chair therefore holds that there is a reduction of expense apparent on the face of the bill, and that the subsequent legislation is necessary to accomplish that result and therefore in order.

The Chair overrules the point of order.

1490. Provision that no alteration be made in certain Army regulations unless accomplished without expense to the Government was held not to retrench expenditure with sufficient certainty to come within the exception.

In determining whether a proposition involves retrenchment of expenditures it is competent to take into consideration not only the pending paragraph or amendment but also the entire bill as well as current law and the parliamentary procedure of the House.

That the extent to which a proposal would reduce expenditures, if at all, was a subject of debate, was held not to be ground for sustaining a point of order.

The true criterion is whether the necessary effect of the proposal, operating of its own force, will be a retrenchment of expenditures in one of the three ways indicated by the rule.

On February 15, 1912,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and a point of order, made by Mr. George W. Prince, of Illinois, was pending on the following paragraph:

That hereafter all enlistments in the Army shall be made for the term of five years, and for all enlistments hereafter accomplished five years shall be counted as a enlistment period in computing continuous-service pay: *Provided,* That, in the absence of express authority hereafter given by Congress, the uniforms of officers and enlisted men of the Army shall hereafter be and remain as prescribed by War Department orders in force on the 25th day of May, 1911, except for such changes as can be made in the uniforms of enlisted men without loss or additional expense to the Government.

The Chairman[2] said:

In the debate it was contended that in ruling on amendments, or provisions of a bill, under the Holman rule, the Chair must look to the face of the paragraph, or amendment, to determine from such paragraph, or amendment, without extraneous aid or assistance, whether it will effect a retrenchment in expenditures. This is error. Speaker Kerr expressly ruled, and this ruling has been uniformly followed, that in determining whether an amendment will operate to retrench

[1] Second session Sixty-second Congress, Record, p. 2093.

[2] Edward W. Saunders, of Virginia, Chairman.

expenditures, the Chair can look to the pending bill, the specific section or amendment under consideration, the law of the land so far as applicable, and the parliamentary rules and practices of the House. Keeping these aids to a decision in mind, the Chair must determine whether the amendment, or included paragraph, will operate of its own force to retrench expenditures. The mere fact that the Chair may think that it is likely that a section, or an amendment will very probably save a considerable sum of money to the Treasury of the United States, is not a sufficient ground on which to hold that such an amendment, or section, is in order. In the view of the Chair, there must be something more. The amendment, or section, must necessarily bring about such a result, ex proprio vigore in order to be sustained.

Again the view was urged upon the Chair that if the conclusion of retrenchment from the operation of an amendment, or paragraph, is a matter of debate or of argument, if it requires evidence to establish such conclusion, then it does not appear from the provision itself that it will work a retrenchment, and the same will not be in order. This again is error. Any proper sition may be the subject of debate. Conceding that the Chair is limited to the inspection of the face of an amendment or paragraph, even then the proper conclusion to be drawn therefrom may be very appropriately debated. The opponents of the amendment may contend with vehemence that no result of retrenchment will attend its operation, while with equal vehemence and superior logic the friends of the amendment may be able to demonstrate that from its operation such a result would be an inevitable sequence.

Hence, the mere fact that the effect of a proposition may be assailed in debate will not operate to establish its invalidity or put it beyond the pale of the Holman rule. The true doctrine is that with or without discussion the Chair must be satisfied, as a condition precedent to holding an amendment to be in order, that the necessary effect of the same operating by its own force will be a retrenchment of expenditures in one of the three ways indicated by the rule.

The legislative provision which is under attack provides that hereafter all enlistments in the Army shall be for a term of five years. The present law provides that such enlistments shall be for a period of three years. In each case a man may reenlist at the expiration of his term. Provision is made by law for a bonus and an increase of pay on reenlistments. It is perfectly manifest, except under conditions so extraordinary that they may be eliminated from consideration, that under the five-year system of enlistment, compared with the existing three-year system, say, for a period of 15 years, there will be more reenlistments under the three-year than under the five-year system. Hence, the system that will reduce the number of enlistments will effect a retrenchment of expenditures under this head. It is contended, however, that certain other results will attend the five-year system which will make it on the whole a more expensive system than the other. But these results are purely speculative and problematical, and though vehemently asserted are with equal vehemence denied. In its first and immediate operation this provision will certainly effect a manifest and considerable retrenchment.

The Chair is not satisfied that there will be any other result, as a consequence of the five-year system, which will make this system on the whole more expensive, or even as expensive, as the three-year system. The Chair is satisfied as to the immediate retrenchment which will be afforded by this provision, and is far from being satisfied as to any other results. Standing alone this paragraph is in order. The next sentence of the section under consideration is in the form of a proviso, and provides, in substance, that hereafter no changes shall be made in the uniforms of officers and enlisted men, except such changes as may be made in the uniforms of enlisted men without loss or additional expense to the Government. This provision is designed to secure economy of administration, but looking to the same, to the bill, and to the law of the land so far as applicable, will this result be necessarily secured by this language standing alone? Does it require the department to do anything that it can not do, or that it may not do, under existing law? Non constat but that the department, in the absence of this provision, will pursue the very course which the proviso is intended to prescribe. It may decide of its motion, without compulsion, to make no changes in the uniform of soldiers, save such as can be made without loss or additional cost to the Government. Hence, it can not be said that the necessary compelling effect of this proviso is to secure retrenchment. This situation is not like the one presented in the preceding sentence. In that case a three-year term provided for by law, and in present operation, is pro-

posed to be substituted by a five-year term. Hence a comparison can be made between the two systems. Unless the present law is changed the department has not volition save to live under the law of three-year enlistments as it is written. In the instance under present consideration the department is under no compulsion to make changes in uniforms that will cause loss or add expense to the Government. There is no way of demonstrating that in the future it will pursue such a course. Hence, as the Chair has said, there is no way of showing that this proviso will compel a course of action other and different from that which would be pursued in its absence.

Unless it can be reasonably shown that the course hereafter to be followed by the department with add cost and expense to the Government in the matter of uniforms, and that the adoption of the proviso is necessary to compel a different course and reduce that expenditure, then this proviso does not come within the principle of the Holman rule.

The Chair is not unmindful that many amendments are likely to be offered under this rule which are on the border line of order, requiring nice discrimination to determine the side of the one to which they appropriately belong. But the Chair must be satisfied that an amendment is in order to support a favorable ruling. In the present instance the Chair is of opinion that the latter portion of the section is not in order. The point of order is made to the whole section, and under the precedents, if sustained at all, it must be sustained in its entirety. The point of order is sustained to the whole section.

1491. If the obvious effect of an amendment is to reduce expenditures, it is not necessary that it provide for such reduction in definite terms and amount in order to come within the exception.

An amendment providing for 10 Cavalry regiments when the existing law provided for 15 was held to retrench expenditures within the provision of the rule, although the exact amount of the reduction could not be accurately determined.

The rule admitting on general appropriation bills legislative provisions reducing expenditures should be liberally construed in the interest of retrenchment.

On February 9, 1912,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. James Hay, of Virginia, offered the following amendment;

Provided, That on and after the 1st day of July 1912, there shall be 10 regiments of Cavalry, and no more, in the United States Army, and that the officers who shall be rendered supernumerary by this reduction in the number of Cavalry regiments shall be retained in service and shall be assigned to vacancies in their respective grades as such vacancies shall occur in the Cavalry, or, in the discretion of the President, to such vacancies in their respective grades as shall occur in any other arm of the service.

Mr. George W. Prince, of Illinois, raised a question of order on the amendment. In debate, Mr. James R. Mann, of Illinois, said:

How does it reduce the amount carried in this bill, I would like to inquire? That amendment does not reduce it; nothing is said in the amendment as to the amount. Now, Mr. Chairman, this is another individual amendment offered on the floor of the House—not a committee amendment. It does not come within the proviso of clause 2, Rule XXI, saying that an amendment, being germane to the subject matter of the bill, shall be in order if it shall retrench expenditures. Not in order under this provision because it is not offered under that provision. It must be in order, if at all, under the provision that it reduces the number and salary of officers of the United States. Now, it does not purport to reduce either the salary or the officers of the United States. It does not purport to reduce the compensation of any person paid out of the Treasury of the United

[1] Second session Sixty-second Congress, Record, p. 1903.

States. If it is proposed to hold amendments like this in order under the Holman rule, there is no limitation upon an amendment which can be offered. Now, the gentleman from Virginia may say this abolishes certain regiments in the Army. That me be true; I do not know. That amendment might be in order if it were offered as an amendment by the committee that had jurisdiction of the subject matter, which is the gentleman's own committee; but if the Chair shall hold that any individual Member on the floor can offer any amendment which he says will retrench expenditures, that it is broadening of the rule which, when the rule was revised, the House thought was improper.

The original Homan rule simply provided that an amendment should be in order, which, being germane to the subject matter of the bill, shall retrench expenditures; and because of the workings of the rule it was revised by the House by their inserting a provision in it that in order to make it in order simply as a retrenchment of expenditures it must come from a committee, and otherwise in order to make it in order it must provide for a reduction in the number or salary or the compensation of persons paid out of the Treasury. Now, this does not do that, and does not purport to do that. If it proposes to abolish officers or cut down their salary, it might be in order.

The Chairman[1] ruled:

The point of order made against the amendment offered by the gentleman from Virginia is that it changes existing law. This is admitted. But it is urged in support of the amendment which is admitted to be germane, that it comes within the Holman rule, and is in order on the ground that it retrenches expenditure.

The Chair desires to place its ruling upon a foundation of authoritative precedent, and to conform to the established and familiar canons of parliamentary construction.

Many rulings have been made under the Holman rule. The Chair has examined these rulings in detail. Some of them are conflicting in part. Others are absolutely irreconcilable. Still others are harmonious and consistent, and may be cited as authority in point. One of these rulings was made upon an amendment offered by the gentleman from Missouri. Mr. De Armond, to a pension appropriation bill. Congressional Record, 1, 52, page 1792. This amendment consisted merely in the addition of the words "or other," to the existing law.

The point was promptly made that this amendment did not show on its face that it retrenched expenditures.

In this connection it is proper to state that it has been expressly held by Speaker Kerr, and concurred in by Chairman William L. Wilson, that in determining whether an amendment will operate to reduce expenditures, the Chair can look at the law of the land, so far as it is applicable. (Hinds, vol. 4, p. 595).

The effect of the amendment offered by the gentleman from Missouri, Mr. De Armond, was to increase the number of persons prohibited from the benefits of a particular clause of the pension law, thereby reducing the number of pensioners, as a necessary sequence. A reduction in the number of pensioners, carried with it a reduction in the amount that would be paid out for pensions, under the general head of pension appropriations. The De Armond amendment was held to be in order. It will be noted that this amendment was not directed to the amount of money actually appropriated by the bill. In terms it did not reduce the aggregate amount specifically carried out for the payment of pensions. But the Chair was justified in concluding, certainly it so concluded, that in the execution of the pension laws the amount otherwise required for the purposes of pensions, would be reduced by the De Armond amendment.

There are few general principles heretofore announced for the interpretation of the Holman rule, proper to be stated in this connection. I quote again from Mr. Chairman Wilson, concurring with Speaker Kerr.

The purpose of the rule (the Holman rule) is not beneficent and proper, and it should have a liberal construction in the interest of retrenchment. (Hinds, vol. 4, p. 594.) Mr. Kerr was universally recognized as a learned and skillful parliamentarian. Mr. Wilson was an exceptionally brilliant and accomplished scholar.

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[1] Edward W. Saunders, of Virginia, Chairman.

In this connection, the Chair will state that it is not necessary, for an amendment to be in order, that it should be specifically directed to a reduction in terms of an amount carried in a bill. Of course if it is addressed to such an amount, and reduces the same in terms, it will be in order. As for instance if the sum of $1,000,000 is appropriated for a designated purpose pursuant to the requirements of existing law and an amendment is submitted, reducing this amount to $995,000, such an amendment will be in order. But the Holman rule admits of other amendments in order. The language of the rules is to the effect that germane amendments changing existing law are in order provided they retrench expenditures, by the reduction of amounts of money covered by the bill.

The words "amounts of money covered by the bill," refer not only to the amounts specifically appropriated by the bill, but to the amounts required under the different heads, or items of expense to which the bill relates. And if the necessary effect of an amendment is to reduce in the operation of the departments, or bureaus, for which appropriations are made, the amount otherwise required for any one, or more heads, or items of expense, then a retrenchment has been effected by a reduction of the amounts of money covered by the bill. It is only in this view of the rule, that the De Armond amendment was in order. This amendment contemplated that in a system involving payments to pensioners, whatever the appropriations might be, the amount actually required for the administration of the law, would be appreciably reduced by a reduction in the number of pensioners. The Chair is not unmindful of the proviso in the second section of Rule XXI, but whatever meaning may be given to the proviso, it should not be construed to take away powers definitely given by the preceding paragraph. This paragraph permits germane amendments to change existing law provided they retrench expenditures in one of three ways. That proviso allows further amendments on the report of the committee having jurisdiction, provided they reduce expenditures. If the committee offers germane amendments, reducing expenditures in any way, they will be in order, and it will not be necessary to refer them to one of three heads. Power of action being plainly given by the paragraph standing alone, the proviso will not be deemed to take away, unless such intention is plainly manifested. The two sections will be construed to stand together, and amendments offered, whether under the first paragraph, or the proviso, will be tested by the requirements of the head which they appropriately fall. This is certain to give a liberal construction to the rule as a whole, in the interests of retrenchment.

The Chair will further say that it is not enough for the Chair to think that an amendment may reduce expenses or that it is likely to reduce expenditures.

The precedents say in this connection that the amendment, being in itself a complete piece of legislation, must operate ex proprio vigore, to effect a reduction of expenditures. The reduction must appear as a necessary result—that is, it must be apparent to the Chair that the amendment will operate of its own force, to effect a reduction. (Manual and Digest, p. 409, Hinds, vol. 4, p. 595). But it is not necessary for this conclusion of reduction to be established with the rigor and severity of a mathematical demonstration. It is enough if the amendment, in the opinion of the Chair, will fairly operate by its own force to retrench expenditures in one of the three ways indicated. This result must be a necessary result, not a conjectural result, or a problematical result. It is true that having reference to the difference of minds, one Chairman might hold that retrenchment would be the necessary result of an amendment, while another Chairman, or the committee on appeal might be a different opinion. But this is inevitable. The law is clear, for instance, that at times a court upon the facts can hold as a matter of law that there was no negligence. Still upon the facts one court will derive this conclusion, while another court, on appeal will reach a different conclusion. The ruling of the Chair on these points is subject to appeal to the committee.

What does this amendment propose to do? The present law provides for an establishment of 15 cavalry regiments. The proposed amendment limits the number of Cavalry regiments to 10. It is difficult for the Chair, by any fair process of reasoning, having reference to known facts, and the relative proportion between the branches of the Army, to see how 15 regiments of Cavalry can be maintained as cheaply as 10, or that a reduction of the Cavalry regiments from 15 to 10 will not effect a reduction in the amount which would be otherwise expended on this branch of the Army under existing law.

This amendment looks to the future, and while it provides for the officers, there is no provision for the retention of the men. But even if the men are retained, there will be a necessary reduction in the matter of horses, equipment, and forage, and so forth, in the case of 10 regiments as compared with 15. Moreover, fewer officers will be required for the Military Establishment, upon a basis of 10 Cavalry regiments as against the existing 15. These results are certain. It is altogether problematical that such additions will be made to the Infantry that the economies effected by reducing the Cavalry regiments from 15 to 10 will be required to meet these additions to the Infantry, or to other branches of the service. Fairly considered the necessary effect of the reduction in regiments proposed by the amendment under consideration is a retrenchment of expenditures. If the Chair was required to determine the precise among saved by this amendment, he would be compelled to rule it out of order. The precise amount of reduction could not be determined. This would be a matter of speculation. But it is clear that a reduction will be effected by the necessary operation of this amendment.

The Chair will cite some additional precedents in support of this ruling:

In an amendment providing that a certain class of persons, now on the pension rolls, shall hereafter not receive pensions, the retrenchment of expenditure is apparent and the amendment is in order. (Manual and Digest, p. 409.)

To the pension appropriation bill, a proposed amendment transferring the Pension Bureau from the Department of Labor to the War Department, also providing that the officers of Commissioner and Deputy Commission of Pensions be abolished, and that the duties of these offices be performed by Army officers, to be designated for that purpose, without additional pay, was held to be in order, being germane, and retrenching expenditures in the manner provided by the rule. (W. G. Wilson, chairman, Hinds, vol. 4, 3887.)

An amendment to the pension appropriation bill providing that no fee shall be paid to a member of an examining board, for services in which he did not actually participate, is not subject to a point of order under this rule, since while it changed existing law, its effect is to reduce expenditures by decreasing compensation. (Congressional Record, 52d Cong., 1st sess., p. 1792.)

The Chair does not undertake to fix in terms the amount of reduction that this amendment will carry, but that a reduction will follow seems to be a fair and necessary conclusion from its provisions.

The Chair wishes to say in conclusion that it has sought to construe this rule, in conformity with the precedents and its manifest intent, so as to give it vital force and effect, and enable the committee operating under its provisions to accomplish some positive results in a way of economic achievement. In the words of Speaker Kerr, it is a beneficent rule. It should be construed to secure beneficent results.

This ruling of the Chair does not take from the committee a particle of authority. In the first instance the Chair must be satisfied that the necessary effect of an amendment offered under the Holman rule will be a retrenchment of expenditures, in conformity with the rule, but from this ruling of the Chair holding the amendment to be in order, an appeal may be taken, and the committee in the exercise of its authority of ultimate interpretation can reverse the Chair if it is in error and fix the interpretation which the committee in its wisdom thinks the rule should carry. The Chair overrules the point of order.

1492. A proposal to replace civilian employees with enlisted men of the Army was held to present a concrete comparison of civil-service salaries with Army pay and to effect a manifest retrenchment of expenditures.

On February 15, 1912,[1] the House was in the Committee of the Whole House on the state of the Union for the consideration of the Army appropriation bill, when the committee rose with a point of order pending against this paragraph:

That as soon as practicable after the creation of a supply corps in the Army not to exceed 4,000 civilian employees of that corps, receiving a monthly compensation of not less than $30 nor

[1] Second session Sixty-second Congress, Record, p. 2117.

more than $175 each, not including civil engineers, superintendents of construction, inspectors of clothing, clothing examiners, inspectors of supplies, inspectors of animals, chemists, veterinarians, freight and passenger rate clerks, employees of the Army transport service and harborboat service, and such other employees as may be required for technical work, shall be replaced permanently by not to exceed an equal number of enlisted men of said corps, and all enlisted men of the line of the Army detailed on extra duty in the supply corps or as bakers or assistant bakers shall be replaced permanently by not to exceed 2,000 enlisted men of said corps; and for the purposes of this act the enlistment in the military service of not to exceed 6,000 men, who shall be attached permanently to the supply corps and who shall not be counted as a part of the enlisted force provided by law, is hereby authorized.

On the following day,[1] when the Committee of the Whole resumed consideration of the bill, the Chairman[2] rendered his opinion as follows:

The Chair has already stated somewhat in extenso its opinion of the proper construction of section 2 of Rule XXI. It is impossible, in view of existing law, and having in mind at once the cost of the employees to be replaced and the cost of the employees that will take their places, not to conclude that a reduction will be effected. The amount to be paid to these employees, respectively, is fixed by law. Hence a comparison can be made. This is a constructive piece of legislation which it is competent for the committee to report by virtue of authority given it by Rule XXI under the prescribed conditions. The chair thinks that it is manifest that this section will effect a retrenchment. The point of order is overruled.

1493. A cessation of Government activities was held to involve a retrenchment of expenditures.

On April 16, 1912,[3] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

For compensation to clerks and employees at first and second class post offices; in all, $37,878,250.

Mr. James R. Mann, of Illinois, proposed this amendment:

Amend by striking out the words "in all, $37,878,250" and inserting in lieu thereof the following: "In all, $37,878,000: *Provided,* That hereafter post offices shall not be open on Sundays for the purpose of delivering mail to the public."

A point of order that the amendment proposed legislation, raised by Mr. John A. Moon, of Tennessee, was overruled by the Chairman[4] on the ground that the amendment involved a reduction of expenditure.

1494. The transfer of equipment, service, or material from one department to another was ruled not to accomplish a retrenchment of expenditure.

On December 17, 1918,[5] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When the

[1] Record, p. 2127.

[2] Edward W. Saunders, of Virginia, Chairman.

[3] Second session Sixty-second Congress, Record, p. 4883.

[4] James Hay, of Virginia, Chairman.

[5] Third session Sixty-fifth Congress, Record, p. 598.

paragraph was reached providing for the transportation of mail by airplanes and otherwise, Mr. William R. Green, of Iowa, offered the following amendment:

Provided, That said planes, motors, and material be operated, repaired, and maintained by the personnel of the Air Service of the Army, without expense to the Post Office Department.

Mr. John A. Moon, of Tennessee, raised a question of order on the amendment.

The Chairman [1] ruled:

The Chair will sustain the point of order on the ground that the amendment nowhere reduces the amount covered by the bill, does not reduce the number of employees or officers of the Government, and does not fall within the limits of the Holman rule.

1495. A prohibition against the expenditure of any portion of an appropriation for the purchase of land was held not to retrench expenditure under any of the three methods provided by the rule.

A limitation in order to be admitted must apply only to the money of the appropriation under consideration and may not be made applicable to moneys appropriated in other acts.

On June 12, 1919,[2] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph was read containing the following proviso:

That no part of any of the appropriations made herein nor any of the unexpended balances of appropriations heretofore made for the support and maintenance of the Army or the Military Establishment shall be expended for the purchase of real estate.

Mr. Charles R. Crisp, of Georgia, objected and said:

Mr. Chairman, the point of order is that under clause 2, Rule XXI, legislation is not in order on a general appropriation bill unless that legislation comes within one of the excepted classes by reducing the amount of money appropriated by the bill, by reducing the salaries of anybody paid for in the bill, or by reducing the number of employees carried in the bill. Clearly the proviso is legislation and does not come within any of these three excepted classes.

Now, what does this provision do? This provision seeks to tie up the money appropriated in this bill. I concede that you can do that. I concede that would be a limitation, and I concede that that would be in order. But when the bill goes further and seeks to put a limitation interfering with the executive discretion, putting legislation upon appropriations heretofore made it is not a limitation, but is legislation, and is not in order on a general appropriation bill.

The Chairman [2] held:

The Chair holds that the proviso referred to does not come within the limitations permitted on an appropriation bill. Congress has the power to withhold appropriations or parts of appropriations. It has that power to withhold money for the purchase of land heretofore authorized to be purchased, for the pay of airplanes heretofore authorized to be constructed, or the purchase of aero fields heretofore authorized, but the appropriations affected by such limitations must be the appropriations contained in the pending bill. It is stated that this limitation would affect unexpended balances of appropriation that are still available after the 1st of July that are available until expended. If that is true it would be a change of existing law, and the Chair, for the purpose of accomplishing a temporary end, would not hold that in an appropriation bill we can change existing law.

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[1] Charles R. Crisp, of Georgia, Chairman.

[2] First session Sixty-sixth Congress, Record, p. 1063.

[3] Phillip P. Campbell, of Kansas, Chairman.

Now, it is stated that the Saunders decision, on the reduction of Cavalry, is in point. The Chair does not have to review the Saunders decision. It is only necessary to say that the Chair does not take the view that the Holman rule applies in this case. The Chair is not aware of the amount or the extent to which expenditures could be retrenched or made. The Chair has endeavored without result to ascertain the amount, if any, that would be saved. In the Cavalry case it could have been figured to a mathematical certainty just the amount that could be saved by the reduction of the troops of Cavalry. The units were counted there. Here the Chair is simply advised that there are unexpended balances available until expended after the 1st of July, which would be affected by this proviso. That would change the law, and we can not change existing law in that way.

The Chair sustains the point of order.

1496. Affirmative directions coupled with an amendment retrenching expenditure were held to be so associated with the retrenchment as to be admissible.

On February 25, 1920,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

The subtreasuries located at Baltimore, New York, Philadelphia, Boston, Cincinnati, Chicago, St. Louis, New Orleans, and San Francisco shall be discontinued December 31, 1920, or at such earlier date with respect to each such subtreasury as may be determined by the Secretary of the Treasury, and upon each such discontinuance all offices created under existing laws at each such subtreasury shall be abolished. All employees in the subtreasuries in the classified civil service of the United States, who may so desire, shall be eligible for transfer to classified civil-service positions under the control of the Treasury Department, or if their services are not required in such department they may be transferred to fill vacancies in any other executive department with the consent of such department. To the extent that such employees possess required qualifications, they shall be given preference over new appointments in the classified civil service under the control of the Treasury Department in the cities in which they are now employed.

Mr. Edmund Platt, of New York, offered the following as a substitute for the paragraph:

That section 3595 of the Revised Statutes of the United States, as amended, providing for the appointment of an assistant treasurer of the United States at Boston, New York, Philadelphia, Baltimore, New Orleans, St. Louis, San Francisco, Cincinnati, and Chicago, and all laws or parts of laws so far as they authorize the establishment or maintenance of offices of such assistant treasurers or of subtreasuries of the United States are hereby repealed from and after July 1, 1921; and the Secretary of the Treasury is authorized and directed to discontinue from and after such date or at such earlier date or dates as he may deem advisable, such subtreasuries and the exercise of all duties and functions by such assistant treasurers or their offices. The office of each assistant treasurer specified above and the services of any officers or other employees assigned to duty at his office shall terminate upon the discontinuance of the functions of that office by the Secretary of the Treasury.

That the Secretary of the Treasury is hereby authorized, in his discretion, to transfer any or all of the duties and functions performed or authorized to be performed by the assistant treasurers above enumerated, or their offices, to the Treasurer of the United States or the mints and assay offices of the United States, under such rules and regulations as he may prescribe, or to utilize any of the Federal reserve banks acting as depositaries or fiscal agents of the United States, as provided by existing law, for the purpose of performing any or all of such duties and functions. Notwithstanding the provisions of section 15 of the Federal reserve act, as amended, or any other provisions of law, the Secretary of the Treasury may deposit or carry with any Federal reserve

[1] Second session Sixty-sixth Congress, Record, p. 3476.

bank any securities, moneys, bullion, or funds authorized by law to be deposited or carried with the Treasurer of the United States or with any of the assistant treasurers: *Provided, however,* That any such trust funds or other special funds or special deposits of securities, moneys, or bullion deposited or carried with a Federal reserve bank shall be kept separate and distinct from the assets, funds, and securities of the Federal reserve bank and be held in the joint custody of the Federal reserve agent and the Federal reserve bank: *And provided further,* That nothing in this section shall be construed to deny the right of the Treasury to use member banks as depositaries as heretofore authorized by law.

That the Secretary of the Treasury is hereby authorized to assign any or all the rooms, vaults, equipment, and safes or space in the buildings used by the subtreasuries to any Federal reserve bank acting as fiscal agent of the United States.

All the employees in the subtreasuries in the classified service of the United States, who may so desire, shall be eligible for transfer to classified civil-service positions under the control of the Treasury Department, or if their services are not required in such department they may be transferred to fill vacancies in any other executive department with the consent of such department. To the extent that such employees possess required qualifications, they shall be given preference over new appointments in the classified civil service under the control of the Treasury Department in the cities in which they are now employed.

Mr. William S. Vare, of Pennsylvania, made the point of order that the substitute provided legislation without reducing expenditures.

The Chairman [1] ruled:

It is clear that this is legislation and out of order on the bill unless it comes under the Holman rule. To come under the Holman rule it is only necessary to show that it will reduce the number of officers, retrench expenditures, and save money. A similar item to this, provided by the Committee on Appropriations, has twice been ruled upon, repealing a law or modifying or changing the law concerning subtreasuries. The amendment of the gentleman from New York introduces some new features, but in the main the Chair is inclined to think that it follows, in so far as the reduction of expenditures is concerned, the provisions of the committee which the Chair would have held to be in order.

The Chair does not believe that he has any right to guess as to whether in the long run this would reduce expenditures or not, but it seems absolutely clear on the face of it that if this amendment, abolishing as it does all the officers of the subtreasuries, merely, transfers the employees to some other sphere of duty, it must necessarily save money, and therefore the Chair thinks it comes under the Holman rule and is in order. The Chair therefore overrules the point of order.

1497. The sale of Government property, even where proceeds of such sale are to be applied to maintenance of governmental activities, thereby reducing appropriations required for that purpose, was held not to effect a retrenchment of expenditures.

On April 29, 1921,[2] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When a paragraph providing for contingent expenses of the Army was read, Mr. James W. Husted, of New York, offered this amendment:

Provided, That the Secretary of War is authorized, in his discretion, to sell to any State or foreign government, upon such terms as he may deem expedient, any materiel, supplies, or equipment pertaining to the Military Establishment as or may hereafter be found to be surplus, which are not needed for military purposes, and for which there is no adequate domestic market, and that any moneys received on account of such sales shall be applied to the pay of the enlisted

[1] Nicholas Longworth of Ohio, Chairman.

[2] First session Sixty-seventh Congress, Record, p. 815.

men of the Army and shall to the extent of the amount thereof reduce the sum appropriated for such purpose.

Mr. Anthony J. Griffin, of New York, made a point of order against the amendment.

The Chairman [1] held:

The gentleman from New York makes the point of order that the pending amendment is legislation carried on a general appropriation bill. The other gentleman from New York, who offers the amendment, contends that because his amendment provides that the proceeds received from the sale of these surplus goods shall be applied to the pay of the Army and that the amount carried in the appropriation bill be correspondingly reduced, it is thereby brought within the Holman rule.

It seems too clear to need elucidation that at the very best the gentleman's amendment amounts to simply taking money out of one pocket and putting it into the other. It amounts to exchanging property already belonging to the United States for cash or credit, which would also belong to the United States, and in no real sense reduces the appropriation.

The property involved now belongs to the United States; therefore the amendment does not necessarily retrench expenditure in any way. The Chair sustains the point of order.

1498. While the proposition to establish a minimum salary does not provide for retrenchment of expenditures, a proposal to fix a maximum salary below that authorized by law effects a reduction of salary and is in order on an appropriation bill.

On August 12, 1921,[2] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the paragraph providing for expenses of the United States Shipping Board was reached.

Mr. William B. Oliver, of Alabama, offered an amendment providing that no employee of the board should be paid a salary in excess of $12,500.

Mr. Everett Sanders, of Indiana, made the point of order that the amendment was not a limitation and therefore not in order on an appropriation bill.

The Chairman [3] said:

The amendment which is offered is:

"Provided further, That no officer or employee of the Shipping Board shall be paid an annual salary or compensation in excess of $12,500."

This plainly is legislation and unless excepted by some rule would not be in order on an appropriation bill. The Chair has not been able in the limited time allowed him to find any precedent, if there be any, on this particular question. However, the Holman rule, section 2 of the Rule XXI, seems to give the Chair all the right that is necessary for the Chair to have here. It provides:

"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, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject matters of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

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[1] John Q. Tilson of Connecticut, Chairman.

[2] First session Sixty-seventh Congress, Record, p. 4948.

[3] William J. Graham, of Illinois, Chairman.

In the judgment of the Chair, this has the effect to reduce the compensation of certain persons paid out of the Treasury of the United States. All the light the Chair has on the subject is gathered from the debate during the discussion on this bill, but it is evident to anyone that there are salaries paid largely in excess of $12,000. The Chair is of the opinion that under the rule cited the amendment is in order, and therefore overrules the point of order.

1499. On March 25, 1924,[1] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When the paragraph appropriating for contingent expenses of the Army was reached, Mr. Elton Watkins, of Oregon, offered this amendment:

Provided further, That no auctioneer shall be paid more than $100 per day out of any money appropriated by this act for services rendered.

Mr. John Jacob Rogers, of Massachusetts, made the point of order that the amendment was not germane and proposed legislation.

The Chairman[2] ruled:

The language of the amendment is—

"*Provided further,* That no auctioneer shall be paid more than $100 per day out of any money appropriated by this act for services rendered."

This clearly is not a limitation on the appropriation, because it simply fixes the pay that the auctioneer shall receive at not more than $100 a day. It does not limit the expenditure of the $50,000 appropriated; but on the other hand, inasmuch as it limits the pay of the auctioneer, it comes under a section of the Holman rule, and is in order; and therefore the point of order is overruled.

The money is appropriated by this paragraph to further sales of material, as is shown by the limitations contained in the proviso. It pertains to the salaries of civilian employees connected with the sale of war supplies, and also limits the sum to be obligated for advertising sales; so that it is germane, in the judgment of the Chair.

1500. Provision for mere reduction of number and salary of officers of the United States in a paragraph complicated by other elements involving problematic reduction in expenditures does not bring a proposition within the exception admitting legislation on an appropriation bill.

On December 9, 1922,[3] the Treasury Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read a paragraph directing the Secretary of the Treasury to substitute power presses for certain hand presses in use in the Bureau of Engraving and Printing.

Mr. Frederick N. Zihlman, of Maryland, made the point of order that the paragraph was in violation of clause 2 of Rule XXI.

The Chairman[4] said:

This bill reported by the Committee on Appropriations, under the heading of Bureau of Engraving and Printing, has this paragraph:

"The Secretary of the Treasury is directed, as soon as possible after the approval of this act and not later than September 30, 1923, to dispense with the use of not less than 196 hand plate printing presses in the Bureau of Engraving and Printing and to substitute therefor not more

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[1] First session Sixty-eighth Congress, Record, p. 4985.

[2] Frederick R. Lehlbach, of New Jersey, Chairman.

[3] Fourth session Sixty-seventh Congress, Record, p. 256.

[4] Everett Sanders, of Indiana, Chairman.

than 58 power plate-printing presses, and hereafter he is authorized to print from plates of more than four subjects each upon power presses the fronts and backs of any paper money, bonds, or other printed matter now or hereafter authorized to be executed at such bureau; and the Secretary shall, in the performance of the duty and exercise of the authority placed upon him by this paragraph, reduce the number of persons employed in the operation of plate-printing presses by not less than 218."

To that paragraph the gentleman from Maryland, Mr. Zihlman, makes the point of order that it changes existing law and violates the provision of clause 2 of Rule XXI, which says:

"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, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, exempt such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

Then there is an additional proviso which is not involved.

The gentleman from Illinois, Mr. Madden, does not dispute the proposition that the proviso changes existing law, but seeks to justify the paragraph upon the ground that it shows upon its face that it is a retrenchment in expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of the amounts of money covered by the bill.

The Chair in passing on this rule is governed by the face of the bill and the law and the rule. The rule laid down by Speaker Kerr in this respect was as follows:

"In considering the question whether an amendment operates to retrench expenditures, the Chair can look only to what is properly of record before him—that is, the pending bill, the specific section under consideration, the law of the land, so far as it is applicable, and the parliamentary rules and practice of the House; and beyond these he is not permitted to go in deciding the question."

The Chair takes it that no one will seriously contend that that is not the rule. The point of order is directed to the whole paragraph. Of course, if there is any part of the paragraph that is not in order, the paragraph must go out. It is all involved in one proposition, which is obviously an attempt at "retrenching expenditures" under the rule.

You will note by the language of the rule that it is not enough that the measure reduces the number and salary of the officers of the United States or reduces the compensation of any person paid out of the Treasury. It must "retrench expenditures" by doing that. The many rulings on this question are fairly uniform. They all hold that when, on the face of the bill, the proposed new legislation retrenches expenditures in one of these three ways the point of order should be overruled, and the rule is generally laid down that the construction should be liberal in favor of retrenchment of governmental expenditures.

The noted parliamentarian, the late Mr. Mann, in arguing this question in a case which has not been cited here, but which the Chair thinks is very much in point, laid down what seems to me the rules governing the decision on this point of order.

There was an amendment offered which provided for a vast expenditure for an asphalt machine, and also provided in the same amendment that there should be a decrease in the expense of doing asphalt work. In discussing the different phases of the matter Mr. Mann made this statement:

"The original Holman rule provided—

"'Except such as being germane to the subject matter of the bill shall retrench expenditures."

"We put a limitation on that. It must retrench expenditures in certain ways now. It is not sufficient to say now that a proposition shall retrench expenditures or must retrench expenditures by the reduction of the amount of the salary of an officer, by the reduction of the compensation, or by the reduction of the amounts of money covered by the bill. I am not referring to the proviso yet. So, if an amendment was out of order under the original Holman rule it is out of order under this provision, because this is a mere limitation upon the original Holman rule.

"While it is not necessary at this time to discuss the proviso in the Holman rule, because that question is not presented, I take it that there the same rule applies as to the retrenchment of expenditure under the original Holman rule, because now a committee is authorized, which has jurisdiction of the subject matter, to offer an amendment on an appropriation bill which shall retrench expenditures. But the basic ruling of all has been that of Speaker Kerr, that the retrenchment of expenditures could not be a matter of argument. It is not a matter for the Chair to determine whether the transfer of the Indian Office to the War Department is a retrenchment of expenditure. It is not for the Chair to determine whether the construction of an asphalt plant is a retrenchment of expenditure. That is an argument pure and simple. People may differ about that. The Chair can only act upon the proposition which is presented on the face of that proposition."

Now, coming to this provision, to which the point of order is directed: It directs the Secretary of the Treasury to substitute 58 power plate-printing presses for 196 hand plate-printing presses, and also to discharge not less than 218 employees. Of course it is admitted that it is going to require the expenditure of money to purchase the presses, but following the ingenious argument that the Government may already have the printing presses on hand, it seems to the Chair that the Chair is unable to determine as a matter of law that that will effect retrenchment of expenditures, so far as the face of the bill is concerned. It certainly may require the expenditure of a vast sum of money to buy printing presses. It may not, but it may require it. They are to be substituted for the others. There is going to be a change in the cost of the overhead with reference to printing presses. That is clear. The amount of that cost is entirely conjectural, is subject to argument, and depends upon extraneous matters not in the record. I asked the gentleman from Illinois if there were 15 men discharged it clearly would not be in order, and the Chair is unable to go up to the point where he can say what number of employees to be discharged makes the provision in order. It would require the Chair to go out and try the question of fact, which depends on statements which might vary, and require the Chair to determine questions of fact, weigh evidence, and search the record in the hearing, which would be a dangerous precedent. Where one paragraph containing new legislation provides in one part for a discharge of employees, which will mean a retrenchment, and to bring about this particular retrenchment substantial expenditures will with reasonable certainty be made and the amount of those expenditures is not capable of definite ascertainment, the Chair is unable to hold that the net result will retrench expenditures. The Chair is of the opinion that this paragraph is subject to the point of order, and the point of order is sustained.

Thereupon an amendment was offered by Mr. Martin B. Madden, of Illinois, eliminating the provision requiring the additional expenditure. The Chair overruled a point of order by Mr. Zihlman and said:

The amendment offered by the gentleman from Illinois reads as follows:

"Hereafter the Secretary of the Treasury is authorized to print from plates of more than four subjects each upon power presses the fronts and backs of any paper money, bonds, or other printed matter, now or hereafter authorized to be executed at the Bureau of Engraving and Printing; and the Secretary shall, in the exercise of the authority conferred upon him by this paragraph, reduce the number of persons employed in the operation of plate-printing presses by not less than 218."

The Chair is of opinion that the amendment comes within the ruling of Chairman Crisp, which holds that where the retrenchment is apparent upon its face the amendment is in order. The Chair overrules the point of order.

1501. On February 2, 1912,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the following paragraph was read:

For pay of officers of the line and staff, $42,000,000.

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[1] Third session Sixty-sixth Congress, Record, p. 2474.

Mr. William J. Fields, of Kentucky, proposed this amendment:

Provided, That no part of this appropriation shall be used for the purpose of paying officers exceeding 1 general, 14 major generals, 31 brigadier generals, 400 colonels, 450 lieutenant colonels, 1,497 majors, 2,994 captains, and 2,844 first lieutenants.

Mr. Frank L. Greene, of Vermont, made a point of order on the amendment and said:

Will the Chair permit me to call his attention to the Army reorganization act, approved June 4, 1920, section 4:

"There shall be one general, now authorized by law, until a vacancy occurs in that office, after which it shall cease to exist. On and after July 5, 1920, there shall be 21 major generals and 46 brigadiers of the line, 595 colonels, 674 lieutenant colonels, 13,245 majors, 4,490 captains, 4,266 first lieutenants, 2,694 second lieutenants, and also the officers of the Medical Department, chaplains"—

And so forth.

There is the plain authorization by statute to the War Department to maintain these officers until a change in the statute takes away that authority and right.

The Chairman [1] held:

The Chair has read the amendment and the law far enough to see that there is a change of the law attempted by the amendment. The Chair did not go through the amendment and the law to make a count to determine whether there are more officers or less officers in the amendment. There is no reduction apparent on the face of the amendment in the amount carried in the bill. The Chair up to this point has not been informed of any reduction that would bring the amendment under the Holman rule.

Whereupon Mr. Fields offered the amendment in this form:

Strike out the figures "$42,000,000" and insert in lieu thereof "$30,000,000" and add:

"Provided, That no part of this appropriation shall be used for the pay of to exceed 1 general, 14 major generals, 31 brigadier generals, 400 colonels, 450 lieutenant colonels, 1,497 majors, 2,994 captains, and 2,844 first lieutenants."

The Chairman ruled:

The amendment as modified carries a smaller amount, which clearly brings it within the Holman rule, and the Chair overrules the point of order.

1502. By retrenchment of expenditures is meant reduction in amounts taken from the Federal Treasury.

An amendment substituting for a percentage contributed to the District of Columbia a lump sum amounting to less than the aggregate of such percentage was held to be in order as a retrenchment of expenditures.

On May 1, 1924,[2] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. To a provision providing for payment of 40 per cent of appropriations for support of the Government of the District of Columbia from the Federal Treasury Mr. Louis C. Cramton, of Michigan, offered the following amendment:

Strike out "40 per cent of each of the following sums, except those herein directed to be paid otherwise," and insert in lieu thereof the following: "$8,000,000."

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 7638.

Mr. R. Walton Moore, of Virginia, made the point of order that the amendment proposed legislation on an appropriation bill.

Mr. Cramton explained:

Mr. Chairman, the amendment which I have offered is in order under the Holman rule. The bill before us appropriates $23,755,000, of which 40 per cent is to be paid from the Federal Treasury, or $8,967,666.08. The amendment which I have offered proposes that instead of contributing that 40 per cent, amounting to $8,900,000 plus, the contribution shall be simply $8,000,000. On the face of the bill it is apparent that it is a reduction in the charge upon the Federal Treasury.

The Chairman [1] ruled:

The Holman rule is involved here. That portion of it relating to this matter says:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salaries of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

Of course it is contended here that this amendment comes under the rule because of a reduction of the amount of money covered by the bill. It is admitted in the argument that it is legislation, and the only question then for determination is whether it is a retrenchment. As to that matter the Chair is largely influenced by the opinions of past Chairmen and Speakers. It seems to me that in such an investigation it is not the business of the Chair to investigate the facts and try to find out whether in fact it does or does not involve retrenchment. It is the business of the Chair, if he can determine it on the face of the bill, to so determine. If he can not, then he ought not to go into an investigation of the facts to see if in fact it will constitute a retrenchment.

However, the Chair is justified in looking at the report which accompanies this bill. This report shows that the total amounts payable from the United States Treasury at 40 per cent is $8,973,666.80. The statement is made in the report that of the total amount recommended by the committee—that is, on the second page of the report—the Federal Government's share is $8,973,666.80.

That leads to another inquiry. When the Holman rule says "retrenchment" does it mean retrenchment so far as the Federal Treasury is concerned, or does it mean a retrenchment in the total amount expended? In other words, are we here to regard only the Federal Treasury and regard the District funds as something separate and apart? What does the word "retrench" mean? Does the term "retrenchment of expenditures covered by the bill" simply mean the funds that are to come out of the United States Treasury and not refer to the District of Columbia funds?

The Chair was of the impression when this question first arose that these refunds mentioned in the act of June 29, 1922, would operate as an offset to the amount carried by this bill, and therefore it might not be possible to tell whether the $8,000,000 was a retrenchment or not. But it appears on further consideration of the matter that the bill carries an appropriation from the Federal Treasury of $8,793,000. That is subject, of course, to reduction or retrenchment by any amounts that will be paid into the Treasury as the result of drawbacks, whatever they may be. The fact that they are set-offs to the amounts covered by the appropriation bill will not change the amount at all if the amount covered by the bill is $8,000,000. Manifestly the same offset will occur whether the appropriation is 40 per cent and the amount $8,973,000, or whether it is $8,000,000, and therefore the amount will be reduced equally in any event.

The Chair is justified in assuming the amount is properly stated in the report accompanying the bill. The Chair has not computed it but is justified in assuming $8,000,000 a retrenchment and reduction below $8,793,000.

The Chair will state his idea about retrenchment. Under the ruling read by the gentleman from Michigan the word "retrenchment," as used in Rule XXI, was held to the retrenchment of

[1] William J. Graham, of Illinois, Chairman.

the amount to be taken out of the Federal Treasury. It does not mean the total amount appropriated by the bill but the amount taken out of the Federal Treasury. The amount in this case would be $8,000,000, and the rest would be taken out of the Treasury of the District of Columbia, which is a separate governmental entity, and while under the control of Congress the funds are its own and the retrenchment of the amount covered by the bill is a retrenchment of the amount from the Federal Treasury. In view of these considerations, the Chair overrules the point of order.

1503. Indian officials are officers of the United States and a reduction in their number and salary is a retrenchment of expenditure within the meaning of the rule.

A reduction in the amount of money appropriated from trust funds held in the Federal Treasury is a retrenchment of expenditure and within the exception provided by the rule.

On April 8, 1912,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph had been read on the previous day:

For expense of administration of the affairs of the Five Civilized Tribes, Oklahoma, and the compensation of employees, $150,000: *Provided,* That $25,000, or so much as may be necessary, of the above amount is hereby appropriated and made immediately available for payment of salaries of persons employed in connection with the work of advertising and sale of surplus and unallotted lands and other tribal property belonging to any of the Five Civilized Tribes, to be expended under the direction of the Secretary of the Interior: *Provided further,* That during the fiscal year ending June 30, 1913, no money shall be expended from the tribal funds belonging to the Five Civilized Tribes, except for schools, without specific appropriation by Congress.

A point of order raised by Mr. Clarence B. Miller, of Minnesota, was pending on the paragraph.

The Chairman[2] ruled:

It has been both a pleasure and a profit to the Chair to give the advocates and opponents of the point of order at issue unlimited time and scope for the presentation of arguments, and they have shown a familiarity with the question and a tendency to frankness and fairness which entitles them to special commendation. The Chair considered these evidences of careful research and skillful preparation of facts as conclusive assurance of wholesome legislative endeavor, and hopes he may have as much concern for good government in his ruling as the Members have indicated in their active solicitude for right legislation in this matter.

The Holman rule is, in the opinion of the Chair, peculiarly suited to the pending point of order in that it furnishes an opportunity to exercise his judgment in behalf of emergent needs or demands like the controverted provision in this bill whereby a saving in Government expenditures is unquestionably implied and expressed. This rule, which is No. 21, sets forth in the second paragraph as follows:

"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, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill: *Provided,* That it shall be in order further to amend such bill upon

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[1] Second session Sixty-second Congress, Record, p. 4428.

[2] Henry A. Barnhart, of Indiana, Chairman.

the report of the committee or any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures."

The Chair hears no specific question raised against the position of the proponents of the bill that the paragraph which the point of order seeks to eliminate is both theoretically and practically germane. The contenders that the point of order should be sustained only insist that the limit of expenditures therein contemplated does not pertain to the United States revenues proper and therefore the Holman rule exception or exceptions do not apply. But it has been shown, and not disputed, that most of the officials who would be affected by this legislation are under United States civil-service regulations and are thereby manifestly recognized as Government officials or employees. And if they are so considered and are regulated and paid the same as other Government officials, the common sense conclusion is that they should be considered as such; and if they are within the list of "officers of the United States," either technically or practically, the reduction of their number and of the amounts paid to them as salaries and expenses, wherein the Government is responsible, would bring the provision of the bill for their curtailment purely within the concept of the Holman rule. On the other hand, if it be that they are in no way a part of the Government services; that the United States does not consider them within its service as officials and employees; and if the proposed reduction in expenditures can not properly be considered retrenchment of expenditures for the Government, then the course for the Chair would be clearly blazed by the facts.

But most of these premises are matters of doubt. The rule plainly sets forth that no provision in any appropriation bill or amendment thereto changing existing law shall be in order except where the said change shall retrench expenditures.

The gentleman from Minnesota contends, with unchallenged argument, that the enactment into law of the provision in the bill here in dispute would curtail the scope of service now given to the Indians by the Government, in substance, strip the Indians of official guardianship that would be detrimental to their welfare and their communities' well-being. And the gentleman from Oklahoma, Mr. Ferris, admits that curtailment of officers is the intent of the provision, and declares it to be a complete indictment of the position of the gentleman from Minnesota that the Holman rule can not here apply, although reducing the number of officers and reducing expenditures is precisely what the Holman rule specifies as permissible new legislation in an appropriation bill.

Another contention of the gentleman from Minnesota and others is that the officers and expenditures to be reduced by the provision of the bill are not United States officers nor United States expenditures, but Indian guardianship officers and expenditures. Of course the Chair is fully advised that, technically speaking, the money to pay the expenditures which it is sought to limit by the provision of the bill now in consideration is a trust fund to which the Government has no right or title except to hold and expend as directed by law. But here in question of Government authority in so-called fiduciary capacity involves Government liability and responsibility, and it requires more judicial acumen than the Chair possesses to decide that those employed by the Government, obligated by the Government, and paid out of Government trust funds are any the less officers of the United States than if they were employed by the same general agency to perform service in some other branch of Government responsibility.

And so, through the fog of contention, which is well founded in many respects on both sides of this complex parliamentary situation, the Chair sees one undisputed fact standing out clearly, and that is the intent of the Holman rule to enable the Congress to discharge useless officers and reduce expenditures, including salaries, by the broadest possible privilege. Hence, when the Government employs these Indian officers, has power to discharge them pays them through one of the regularly constituted Government bureaus, and recognizes and regulates them in all ways as Government officials, in the opinion of the chair they are in fact such and thereby subject to regulation by Congress.

The Chair, clothed as he is with this temporary authority, is not disposed to be a revolutionist and overthrow the opinion and practices of his illustrious predecessors, but we would have it understood that as a layman rather than an expert, the line of demarcation between the Gov-

ernment acting as trustee for the people as a whole, or for any particular class, is so indistinct that it is not visible in a matter-of-fact discrimination. Therefore, on the wholesome theory that technical error on the side of right is never actually wrong, and that economy in behalf of the Indian wards of the Government is an obligation as sacred and binding as safeguarding the expenditure of the whole people's revenues, the point of order is overruled.

1504. A provision abolishing two offices and creating in lieu thereof one office at a smaller salary than the combined salary of the two offices abolished is a reduction of the number and salary of officers of the United States and is in order on an appropriation bill.

On February 19, 1914,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

For expenses of administration of the affairs of the Five Civilized Tribes, Oklahoma, and the compensation of employees, $150,000: *Provided,* That the offices of the Commissioner of the Five Civilized Tribes and superintendent of Union Agency, in Oklahoma, be, and the same are hereby, abolished and in lieu thereof there be appointed by the President, by and with the advice and consent of the Senate, a Superintendent for the Five Civilized Tribes, with his office located in the State of Oklahoma, at a salary of $5,000 per annum.

Mr. James R. Mann, of Illinois, raised a question of order on the proviso.

The Chairman[2] held:

The gentleman from Illinois makes a point of order against the proviso, which reads:

"*Provided,* That the offices of the Commissioner of the Five Civilized Tribes and superintendent of Union Agency, in Oklahoma, be, and the same are hereby, abolished in lieu thereof there be appointed by the President, by and with the advice and consent of the Senate, a Superintendent for the Five Civilized Tribes, with his office located in the State of Oklahoma, at a salary of $5,000 per annum."

It is contended that this proviso is in order under that portion of the second clause of the Holman rule which reads as follows:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order except such as, being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

The first question, of course, for the decision of the Chair is whether or not the proviso in the bill against which the point or order is made is germane to the subject matter of the bill. This section of the bill provides for expenses of the Five Civilized Tribes in Oklahoma and the compensation of employees. The proviso seeks to abolish the offices of commissioner and superintendent of Union agency in Oklahoma, which are vested in part, if not in whole, with the administration of the affairs of the Five Civilized Tribes, and clearly, in the opinion of the Chair, the proviso is germane to the subject matter of the bill.

The next question is as to whether or not it retrenches expenditures by the reduction of the number and salary of the officers of the United States, or by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of the amounts of money carried in the bill.

In the opinion of the Chair, it is only necessary to read the language of the proviso in order to see that it comes clearly within the rule, and is therefore in order. It proposes to abolish two officers, that of Commissioner to the Five Civilized Tribes and superintendent of the Union Agency, with salaries, the Chair is informed, of $5,000 and $4,500, respectively, and to substitute therefor

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[1] Second session Sixty-third Congress, Record, p. 3676.

[2] Joseph W. Byrns, of Tennessee, Chairman.

one Superintendent of the Five Civilized Tribes at $5,000, which is a reduction in offices and salary and a necessary reduction of the amount of money necessary to be carried in the bill.

The gentleman from Illinois makes the point of order that there is nothing in the proviso to show that the new office created is to perform the duties performed by the two offices which the proviso seeks to abolish. The Chair thinks the language in the proviso to the effect that these two offices are to be abolished. The Chair thinks the language in the proviso to the effect that these two offices are to abolished, and, quoting from the proviso, "and in lieu thereof there be appointed by the President, by and with the advice and consent of the Senate, a Superintendent of the Five Civilized Tribes," clearly shows that the new office is to perform the duties which have been heretofore performed by the two offices which this proviso seeks to abolish, and the Chair therefore overrules the point of order.

1505. Repeal of a statutory provision authorizing the offices of assistant treasurers was held to retrench expenditures by the reduction of the number and salary of the officers of the United States.

The Holman rule is to be construed liberally and any question of doubt is properly resolved in favor of an interpretation contributing to retrenchment.

The Committee on Appropriations, while without general jurisdiction to report legislation, may under the Holman rule propose germane legislation retrenching expenditure.

On March 8, 1918,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

The Secretary of the Treasury is authorized and directed to discontinue the offices of the assistant treasurers at Baltimore, Boston, Chicago, Cincinnati, New Orleans, New York, Philadelphia, St. Louis, and San Francisco within six months after the President shall have proclaimed the termination of the existing state of war between the United States and Germany; and section 3595 of the Revised Statutes of the United States is repealed from and after the discontinuance of the said offices. The Secretary of the Treasury further is authorized to retain only such of the employees of the offices of the assistant treasurers as may be necessary to safeguard the property and funds of the United States such others as in his judgment may be necessary in connection with the discontinuance of the said offices.

Mr. J. Hampton Moore, of Pennsylvania, made a point of order on the paragraph.

After debate, the Chairman[2] ruled:

The application of the Holman rule is a matter that has been the subject of many rulings, but it seems to the Chair that the case under consideration, while not entirely novel, presents a somewhat unusual aspect of this rule.

In connection with the Holman rule, it may be said in a preliminary way that the authorities are agreed that the rule is a wholesome one, and therefore proper to be liberally construed. Hence, if the question presented is difficult of decision under the rule the Chair in case of doubt should resolve that doubt in favor of an interpretation which will submit the paragraph or amendment under consideration to the judgment of the House, which will thereby be put in a position to pass upon the merits of the substantial question in issue. A former Speaker of this body announced the canon of construction for the Holman rule as follows:

The purpose of the rule is most beneficial and proper, and it should have a liberal construction in the interest of retrenchment."

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[1] Second session Sixty-fifth Congress, Record, p. 3224.

[2] Edward W. Saunders, of Virginia, Chairman.

To the same substantial effect Mr. Chairman Crisp:

"The Holman rule is intended to have a beneficial effect upon the Treasury of the United States. If the Chair is in doubt whether an amendment is in order this doubt should be resolved against the point of order, for by so doing the Chair works no hardship upon anyone, but submits to the committee itself the privilege of passing upon the amendment. If the committee favor it, then a majority can adopt it. If a majority is opposed to it, then that majority can reject it. (Manual House Rules, 1916, p. 505.)"

If the contention that the paragraph under consideration was in order, rested exclusively upon the ground that it effected a reduction in the amounts of money covered by the bill, the Chair would be constrained to sustain the point of order raised by the gentleman from Pennsylvania. Plainly the paragraph will not necessarily reduce the amounts covered by the bill, since the provision relating to the offices proposed to be abolished may not take effect within the periods for which this bill makes appropriations.

There is no effective proposition to reduce the amounts covered by this bill for the obvious reason that the reductions which the repealing provision will effect will not of necessity occur within the life of the bill, which is limited to a duration of two fiscal years. There is another feature, however, of the paragraph which has apparently been overlooked, and that is the reduction effected in the number of the officers of the United States. It seems to be conceded as a matter of fact, that this paragraph, if it remains in the bill, will eliminate a very definite number of Federal officials, receiving considerable salaries fixed by law. Looking to the Holman rule, as it appears in the House Manual, section 21, subsection 2, it will be noted that a retrenching amendment, changing existing law, will be in order if it accomplishes any one of several results. The rule is as follows:

"Nor shall any provision in any such bill, or amendment thereto, changing existing law, be in order, except such as being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

As pointed out, it is not possible to bring the paragraph under consideration, within the benefit of the last portion of the language cited, on account of the uncertainty of the date at which the repealing clause of the paragraph will become operative. But the rule contains another provision, or head, to which the paragraph may be related. The Chair in this connection will call the attention of the committee to this language of the rule: "except such, as being germane to the subject matter of the bill shall retrench expenditures, by a reduction of the number and salaries of the officers of the United States."

The rule does not say at what time this reduction of officers shall take place, but that expenditures shall be retrenched by a reduction of the number and salary of the officers of the United States. This reduction may be effected eo instanti, or at some future date. The one thing needful is that the reduction of the number and salaries of Federal officials shall be effected. Now a very definite number of Federal officials and incidental salaries will be eliminated if this paragraph is retained in the bill.

Section 3595 provides that there shall be assistant treasurers at certain designated places. Section 3596 determines the salaries for these officers. Very well. If the paragraph under consideration repeals the law providing for the assistant treasurers at the places indicated, how can it be argued that salaries can be paid to nonexistent officers? The shadow follows the substance. If the office falls, the officer and the salary falls with it. All that the next section in succession proposes to do, is provide salaries for the officers authorized by the preceding section. The section fixing the salaries of the assistant treasurers is of importance, in the determination of the point of order. It affords the most positive and reliable information as to the extent of the salary reductions effected by the paragraph to which the point of order is directed. Looking to the first section cited and then to the section which provides the salaries for the officers created by the first session, it is easy to determine precisely the aggregate amount of reduction of official salaries effected by the paragraph under discussion, should it be retained in the bill by the action

of the committee. As to the right of the Committee on Appropriations to submit a repealing provision germane to the subject matter of the bill and retrenching expenditures by reducing the number and salaries of Federal officials, the Chair is content to rest his ruling upon the precedents afforded by numerous decisions construing the Holman rule.

The Chair has sought to point out that this paragraph can not be sustained on the ground that it reduces the amounts covered in this bill. But the Chair has also endeavored to point out as a part of his ruling that the paragraph can be sustained under another head, or portion of subsection 2 of Rule XXI. The language of that portion defines precisely how the retrenchment of expenditures may be effected, namely by a reduction of the number and salaries of Federal officials. In order to qualify, so to say, under that language, it is only necessary to show first that the number of Federal officials has been reduced, second that salaries of these officials have also been reduced. Retrenchment of expenditures is established by the mere fact of reduction in the number and salaries of the officers of the United States. The subsection reads:

"Which shall retrench expenses by the reduction of the number and salary of the officers of the United States."

The repealing language of the paragraph provides a very distinct reduction in the number and salaries of officers of the United States. Should this bill become a law, it will be possible to state very definitely the number of officers that will be eliminated, and the consequent reduction in salaries that will be effected. There is no doubt in the mind of the Chairman, and I suppose none on the part of any member of the committee, that this paragraph, once enacted into law, will abolish all of the offices provided for in section 3595, and at the same time eliminate the salaries of fixed for these offices by section 3596.

This being so, this paragraph, in the very language of the Holman rule, will retrench expenditures, and, retrenching expenditures, it thereby becomes in order.

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Mr. Chairman Crisp has ruled on this precise question on March 14, 1916, in a decision reported in the House Manual on page 502. The legislative, judicial, and executive bill was under consideration, and the ruling was upon an amendment offered by the gentleman from Missouri, Mr. Borland. This amendment in substance provided for a reduction in the number of persons in the classified service, to be effective on or before June 30, 1917, and effected certain changes in existing law. The point of order was made that the amendment proposed legislation, and therefore was out of order on an appropriation bill. The Chair first proceeded to determine whether the amendment was germane, and in that connection used the following language:

"The bill before the House is the legislative, executive, and judicial appropriation bill, dealing generally with the salaries of officers and employees of the United States Government. In the main this is the appropriation bill which carries the salaries for the officers and employees of the Government. The amendment seeks to deal with a certain number of the employees of the Government, and the Chair thinks the amendment proposing a new section, dealing with a certain class of Government employees, is germane to the bill. * * * The amendment clearly reduces the salaries to be paid out of the Treasury. The Chair is clearly of opinion that where an amendment is offered reducing the number of salaries paid out of the Treasury, coupled with legislation, that legislation to be in order must be connected up with, related to, or logically follow from the part of the amendment, reducing the number of employees, or the amounts of money covered by the bill. The Chair can not escape the conclusion that if you reduce the number of clerks, the business of the Government will require those remaining in the service to work longer hours. The Chair thinks the legislation naturally and logically follows the provision reducing the number of clerks."

The principles of this decision and of other decisions quoted by Judge Crisp may be readily applied to the case in hand. The same bill is under consideration. It deals with the salaries of these assistant treasurers. In part they are the subject matter of the bill. The repealing language of the paragraph will eliminate these officers and their salaries. It deals with officers to which the bill relates, and for whom it will make appropriations, so long as the offices are in existence. It proposes to change the law which affords the very offices that will be filled by the assistant treasurers, until the offices themselves are abolished. Hence, the amendment, that

is the repealing and reducing language, is germane to a bill which proposes to appropriate for these officers. It is not only germane, but it retrenches expenditures in the very manner contemplated by the rule, that is by reducing the number and salaries of Federal officials. Being both germane, and retrenching expenditures, it is in order. It is not material that the officers will be abolished in future. The rule does not require them to be abolished eo instanti. It is enough that they will be abolished at some sufficiently definite date. The abolition effects the retrenchment.

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The Committee on Appropriations is not incapacitated from offering a repealing section effecting a reduction of expenditures. A ruling to the contrary would in substance mean that the Committee on Appropriations could never bring itself within the Holman rule, since that rule contemplates legislation upon an appropriation bill, provided it is germane, and retrenches expenditures. The Committee on Appropriations has no general jurisdiction to enact legislation. It is concerned exclusively with appropriations. In order that it may come within the provisions of the Holman rule, and enact legislation, it must appear that the proposed legislation is related to the subjects for which the committee appropriates, and if enacted will reduce expenditures.

* * * * * * *

Now, so far as the suggestion of the Secretary of the Treasury and the merits of the paragraph are concerned, the Chair can not take them into consideration in passing on the point of order. The only thing proper to be considered is whether this paragraph is within the principle of the Holman rule. The Chair thinks it is, and overrules the point of order.

1506. Proposal that an appropriation for pay of a class of employees be restricted to payment of a smaller number than authorized by law was held to involve a reduction of the number of officers of the United States.

On February 3, 1921,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read:

For pay of warrant officers, $1,346,000: *Provided,* That this appropriation shall be used for the pay of not to exceed 1,000 warrant officers.

Mr. Harry E. Hull, of Iowa, made the point of order that the paragraph proposed legislation.

Mr. Daniel R. Anthony, of Kansas, called attention to the law providing for 1,220 warrant officers in the Army and contended that the paragraph reduced expenditures.

The Chairman[2] ruled:

This proviso limits the expenditures to the pay of a smaller number of officers than is authorized, and therefore, in the opinion of the Chair, is clearly within the Holman rule and is a retrenchment. The Chair overrules the point of order.

1507. A proposal to consolidate offices was held to involve reduction in the number and salary of officers of the United States.

On February 11, 1922,[3] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Registers and receivers: For salaries and commissions of registers of district land offices and receivers of public moneys at district land offices, at not exceeding $3,000 per annum each,

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[1] Third session Sixty-sixth Congress, Record, p. 2518.

[2] James W. Husted, of New York, Chairman.

[3] Second session Sixty-seventh Congress, Record, p. 2460.

$372,000: *Provided,* That the offices of registers and receivers at the following land offices are hereby consolidated, and the applicable provisions of the approved October 28, 1921, shall be followed in effecting such consolidation: Montgomery, Ala.; El Centro and Susanville, Calif.; Durango, Lamar, and Montrose, Colo.; Coeur d'Alene and Lewiston, Idaho; Topeka, Kans.; Baton Rouge, La.; Cass Lake, Crookston, Duluth, and Jackson, Minn.; Billings, Great Falls, Kalispel, and Missoula, Mont.; Lincoln, Nebr.; Elko, Nev.; Bismarck, N. Dak.; Pierre, S. Dak.; Vernal, Utah; Walla Walla and Yakima, Wash.: *Provided further,* That, with the exception of the land offices mentioned in the last preceding proviso, and also the land offices at Eureka, Calif., and Burns, Oreg., and where the land office shall be the only remaining land office in any State, no money herein appropriated shall be expended for the maintenance of any land office, other than as in provided in this paragraph, in a land district having public land area of less than 100,000 acres, or whose cost of maintenance shall exceed 33⅓ per cent of the revenues of the office for the fiscal year ending June 30, 1922: *And provided further,* That the land office at Springfield, Mo., and the offices of register and receiver thereat are hereby abolished.

Mr. John E. Raker, of California, made the point of order that the paragraph carried legislation without reducing expenditures.

The Chairman [1] ruled:

This section has really three proposals in it—first, to consolidate certain offices; second, a proviso to limit the expenditure of the fund appropriated; and, third, the abolishing of certain offices named in the section. The point of order may be decided, the Chair believes, by a reference to section 2 of Rule XXI of the House, a rule familiar to all of us. The rule provides in part:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and the salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of the amounts of money covered by the bill."

It is very evident to the Chair that the number of officers to be provided for by this section is reduced by this consolidation; in fact, it would seem the number is practically reduced one-half. It is equally evident to the Chair that it does reduce the amount of money to be expended. The Chair finds by reference to the current law that the sum of $450,000 was appropriated for exactly the same purpose for the current fiscal year. For the same purposes this bill proposes to appropriate $372,000, or a reduction from current law of $78,000, a very substantial decreased. The second part of the section is evidently simply a limitation, and the Chair can see no reasonable point that can be made against it. The third part of the section could be properly comprehended within the same reasoning that is used as to the first part of the section, as it is nothing but a proposition to abandon certain offices.

We are not without precedents in this matter. In the Sixty-third Congress, second session, Chairman Byrns of Tennessee presiding, the point of order was made against the following proviso:

"*Provided,* That the offices of the Commission of the Five Civilized Tribes and superintendent of Union Agency, in Oklahoma, be, and the same are hereby, abolished, and in lieu thereof there be appointed by the President, by and with the consent of the Senate, a superintendent of the Five Civilized Tribes, with his office located in the State of Oklahoma, at a salary of $5,000 per annum."

It was contended that the proviso was in order under that portion of the second clause of the Holman rule which I have just read.

The Chair, on consideration of the matters that were urged at that time against the provision, held that the point of order was not well taken. Later, in the consideration of the legislative, executive, and judicial appropriation bill in February, 1920, in the House, Mr. Longworth being Chairman of the committee, a point of order was made against the provisions of that act relative to surveyors general, the effect of which provisions was to abolish several offices of surveyors

[1] William J. Graham, of Illinois, Chairman.

general. The gentleman from California, Mr. Raker, made a point of order at that time against the provision. The Chair in ruling upon it determined that the provisions of the bill did constitute a reduction in appropriation and was in order. He took the appropriation in the then current law and compared it with the expenditures to be made under the proposed bill and finding it was a reduction, held on that comparison that because of that reduction the point of order would not lie. I think these precedents are sufficient. The section is plainly not subject to the objection made, and the point of order is overruled.

1508. An amendment discontinuing the Federal Farm Board and transferring its functions to the Secretary of Agriculture was held to be in order under the exceptions admitting legislation on an appropriation bill.

On April 8, 1932,[1] the independent offices appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Carl Vinson, of Georgia, proposed an amendment as follows:

Provided further, That the Federal Farm Board created by the agricultural marketing act of June 15, 1929, including the offices of eight members of the board at $12,000 each and the respective positions of general counsel at $20,000 and secretary at $8,500, 10 in all, with annual salaries aggregating $124,500, is hereby abolished, effective at the close of business on June 30, 1932. The authority, powers, and duties vested in such board by law and the obligations and rights of such board are hereby transferred to, imposed upon, and vested in the Secretary of Agriculture.

Mr. Fiorello H. LaGuardia, of New York, made the point of order that the amendment proposed legislation and was not in order as a retrenchment of expenditure.

After debate, the Chairman[2] ruled:

The gentleman from Georgia proposes an amendment to the Federal Farm Board paragraph of the bill. The amendment in substance abolishes the Farm Board and transfers the duties and activities of that board to the Secretary of Agriculture. The question before the Chair, raised by the point of order, is as to whether or not the gentleman's amendment is in order under the Holman rule. The Holman rule provides that an amendment to be in order, carrying legislation on an appropriation bill, must be germane; that is, it must, under former holdings of Chairmen of this committee, be appropriate, pertinent, and must have a close relationship to the section to which the amendment is directed. In addition to that, it must retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts covered by the bill.

The Chairman then referred to decisions cited in the debate on the point of order and continued:

The Chair is of opinion, after reading those decisions and studying the Holman rule, that the amendment is in order, and, therefore, the Chair overrules the point of order.

1509. On December 4, 1924,[3] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

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[1] First session Seventy-second Congress, Record, p. 7800.

[2] Fletcher B. Swank of Oklahoma, chairman.

[3] Second session Sixty-eight Congress, Record, p. 162.

Registers: For salaries and commissions of registers of district land offices, at not exceeding $3,000 per annum each, $125,000: *Provided,* That the offices of register and receiver of such of the following land offices as may now have two officials shall be consolidated, effective July 1, 1925, and the applicable provisions of the act approved October 28, 1921, shall be followed in effecting such consolidations: Montgomery, Ala.; Anchorage, Fairbanks, and Nome, Alaska; Phoenix, Ariz.; Little Rock, Ark.; Los Angeles, Sacramento, San Francisco, and Visalia, Calif.; Denver, Glenwood Springs, Montrose, and Pueblo, Colo.; Gainesville, Fla.; Boise and Lewiston, Idaho; Baton Rouge, La.; Marquette, Mich.; Cass Lake, Minn.; Havre, Helena, Miles City and Missoula, Mont.; Lincoln, Nebr.; Carson City, Nev.; Las Cruces, Roswell, and Sante Fe, N. Mex.; Bismarck, N. Dak.; Guthrie, Okla.; Lakeview, Portland, Roseburg, The Dalles, and Vale, Oreg.; Pierre and Rapid City, S. Dak; Salt Lake City, Utah; Seattle and Spokane, Wash.; and Buffalo, Douglas, Evanston, and Lander, Wyo.: *Provided further,* That the following land offices are hereby abolished effective July 1, 1925: Harrison, Ark.; El Centro, Eureka, Independence, and Susanville, Calif.; Del Norte, Durango, Lamar, Leadville, and Sterling, Colo.; Blackfoot, Coeur d'Alene, and Hailey, Idaho; Topeka, Kans.; Crookston and Duluth, Minn.; Jackson, Miss.; Billings, Bozeman, Glasgow, Great Falls, Kalispell, and Lewistown, Mont.; Alliance, Nebr.; Elko, Nev.; Clayton and Fort Sumner, N. Mex.; Dickinson, N. Dak.; Burns and La Grande, Oreg.; Bellefourche, S. Dak.; Vernal, Utah; Vancouver, Walla Walla, Waterville, and Yakima, Wash.; Wausau, Wis.; Cheyenne and Newcastle, Wyo., and their necessary personnel, together with such records, furniture, and supplies as may be necessary, shall be transferred to such of the land offices enumerated above and not abolished by this act as the Secretary of the Interior may direct, except that the records of the Topeka, Kans., Jackson, Miss., and Wausau, Wis., land offices shall be disposed of in accordance with existing law.

Mr. John E. Raker, of California, having raised a question of order of the paragraph, the Chairman [1] ruled:

This point of order is made against the proviso which apparently is new legislation. The justification for the new legislation is that it is a retrenchment of expenditures under rule 21, clause 2. The same question was decided in the citation by the gentleman from Michigan in interpreting the rule and, in addition, in the cases cited by the gentleman from Oklahoma. On January 11, 1922, Chairman Graham ruled upon a very similar point of order made by the gentleman from California who now makes the point of order. In rendering the decision in that case, the Chairman said:

"This section has really three proposals in it—first, to consolidate certain offices; second the proviso to limit the expenditure of the fund appropriated; and third, the abolishing of certain officers in the section."

The Chair in that case, after citing a number of precedents, held it was a retrenchment of expenditures under the Holman Rule, and the present occupant of the chair will follow that ruling.

1510. A proposal to limit the number of Army officers paid from an appropriation made for that purpose to a smaller number than that authorized by law, and to recommission officers in lower grades than those occupied at the time, was held to come within the exceptions provided by the rule.

The Committee on Appropriations is authorized to report in an appropriation bill any legislative proposition in order on such bill under the rules.

Opinion that the rule should be strictly construed in order to avoid admission of ineligible legislative riders under guise of retrenchment on general appropriation bills.

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[1] Everett Sanders, of Indiana, Chairman.

On March 21, 1922,[1] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Pay of officers: For pay of officers of the line and staff, $26,896,200: *Provided,* That the sum herein appropriated for the pay of officers shall not be used for the pay of more than 11,000 commissioned officers on the active list, of which number there shall be not to exceed 1 general, 21 major generals, and 46 brigadier generals of the line; the general officers authorized by law for chiefs and assistant chiefs of branches; the number of officers of the Medical Corps now authorized by law of six and one-half for every thousand enlisted men, the number of officers of the Medical Administrative Corps now authorized by law of one for every 2,000 enlisted men, the number of officers of the Dental Corps now authorized by law of one for every thousand officers and enlisted men of the Regular Army; not to exceed 109 commissioned officers of the Veterinary Corps; one chaplain as now authorized by law for every 1,200 officers and enlisted men of the Regular Army, exclusive of the Philippine Scouts; professors at the United States Military Academy; the military storekeeper; and those belonging to branches whose names are carried on the promotion list to be distributed in grades as follows: Not to exceed 4 per cent in the grade of colonel, or 389; not to exceed 4.5 per cent in the grade of lieutenant colonel, or 437; not to exceed 15 per cent in the grade of major, or 1,458; not to exceed 30 per cent in the grade of captain, or 2,915; not to exceed 28.5 per cent in the grade of first lieutenant, or 2,769; and the remainder in the grade of second lieutenant: *Provided further,* That officers found surplus may be recommissioned in the next lower grade in accordance with their standing on the promotion list, or on the relative list if their names are not on the promotion list, or those of less than 10 years' commissioned service in the Regular Army may be discharged with one year's pay, or those of more than 10 years' commissioned service and less than 20 years' service may be placed on the unlimited retired list with pay at the rate of 2½ per cent of their active pay multiplied by the number of complete years of such commissioned service, or those of more than 20 years' commissioned service in the Regular Army may be placed upon the unlimited retired list with pay at the rate of 3 per cent of their active pay multiplied by the number of complete years of such commissioned service, not exceeding 75 per cent; all under such regulations as the President may prescribe.

Mr. Julius Kahn, of California, made the point of order that the paragraph provided legislation on an appropriation bill.

Mr. Thomas S. Crago, of Pennsylvania, raised a further question as to the right of the Committee on Appropriations to report a legislative proposition within the jurisdiction of the Committee on Military Affairs.

The Chairman[2] said:

The gentlemen from California makes the point of order against the entire paragraph, including the appropriation itself and both provisos.

The Chair thinks we should construe the entire paragraph as one concrete whole, especially as it is quite evident that the second proviso is necessary to carry out the first. The gentleman from Pennsylvania raises the question of the jurisdiction of the committee. The Chair does not think there is any question about that. The Committee on Appropriations certainly has jurisdiction to bring in an appropriation bill for the pay of the Army, and it may also bring in a paragraph containing legislation, provided that the legislation is in accordance with the rules of the House is considering an appropriation bill. Of course, there is legislation, in the Chair's view, in both provisos, though he thinks he might hold the first proviso in order as a limitation. But there is legislation in both provisos, and the only question is whether this provision of the Holman rule is applicable to the paragraph under consideration:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter shall retrench expenditures by the reduc-

[1] Second session Sixty-seventh Congress, Record, p. 4197.

[2] Nicholas Longworth, of Ohio, Chairman.

tion of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

The present occupant of the chair has been called to rule quite a number of times on the Holman rule, and he is one of those who believes that it should be construed strictly. In other words the present occupant of the chair must see to his satisfaction that the provisions in the bill actually and evidently on their face do reduce expenditures in either of the three ways provided under the Holman rule. It seems to the Chair entirely evident that this provision does reduce expenditures of the Government by a reduction of the number of officers and by the amount of money carried. The Chair thinks that this provision is in order, and therefore overrules the point of order.

1511. A proposition reducing the number of Army officers and providing the method by which the reduction should be accomplished was held to come within the exceptions under which legislation retrenching expenditure is in order on an appropriation bill.

Unlike a provision admitted as a limitation, language admitted under the Holman rule is not restricted in its application to the pending bill but may provide permanent law.[1]

On May 13, 1932,[2] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the section providing pay and allowances for the Army including the following:

Provided further, That after September 30, 1932, the number of officers of the line and promotion-list officers on the active list of the Regular Army shall not exceed 8,930, to be distributed among the following grades in the proportion now authorized by law, namely: Seventeen in the grade of major general, 37 in the grade of brigadier general, 384 in the grade of colonel, 473 in the grade of lieutenant colonel, 1,411 in the grade of major, and 2,822 in the grade of captain, and in the grades of first and second lieutenant the total number shall not exceed 3,786.

Mr. Henry E. Barbour, of California, submitted the point of order that this proposition constituted legislation in that it modified provisions in section 4 of the act of June 4, 1920,[3] reading as follows:

On and after July 1, 1920, there shall be 21 major generals and 46 brigadier generals of the line, 599 colonels, 674 lieutenant colonels, 2,245 majors, 4,490 captains, 4,266 first lieutenants, 2,694 second lieutenants, and also the number of officers of the medical department and chaplains hereinafter provided for, professors as now authorized by law, and the present military storekeeper, who shall have the rank, pay, and allowances of a major; and the numbers herein prescribed shall not be exceeded.

Mr. Barbour also argued that the provision objected to did not relate exclusively to the fiscal year of 1933, for which the pending bill purported to appropriate, but provided permanent law.

In support of his contention Mr. Barbour cited a decision[4] rendered by Chairman Frederick C. Hicks, of New York, holding that limitations must apply solely to the appropriation under consideration.

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[1] Such restriction, however, does apply to "amounts of money covered by the bill." See section 1525 of this chapter.

[2] First session, Seventy-second Congress, Record, p. 10144.

[3] U.S. Code, title 10, section 482.

[4] Section 1706 of this volume.

The Chairman [1] ruled:

The gentleman from California makes the point of order against part of this paragraph, that it is legislation on an appropriation bill.

The precedent cited by the gentleman from California would seem to the Chair hardly applicable in view of the fact that it had reference solely to a limitation and not to legislation.

The question of whether or not legislation is in order on an appropriation bill has long had bestowed upon it the broadening effect of the Holman rule, a rule which is familiar to all of the membership of this House. This rule provides that on appropriation bills legislation is in order if it has certain well-defined tendencies. For instance, there is this provision—

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter for the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States or by the reduction of amounts of money covered by the bill."

Of course, no contention is made that this part of this paragraph is not germane. In the light of existing law, it is clearly a reduction in the number of officers, and therefore in the amounts of money that will be expended by the Federal Government, and on its face does show retrenchment in governmental expenditure.

It has been argued that that part of the paragraph is not in order which sets up an agency and prescribes the method by which the retrenchment shall be effected.

It seems to the Chair that the provision for the establishment of such an agency is but a declaration of the policy that shall be pursued in effecting the retrenchment, and that it is purely ancillary to the general purpose of this paragraph, and should be taken as an incidental matter in connection with the general and main object of the provisions against which the point of order is directed.

One part of this paragraph, which at first gave the Chair most concern, has not been alluded to in the discussion of the point of order.

In a decision made by former Speaker Longworth when he was serving as Chairman of the Committee of the Whole House before his election as Speaker, almost this identical question arose with reference to a proposed reduction of the number of officers, and consequently a corresponding reduction in the amounts of Federal expenditures. This precedent was cited by the gentleman from Missouri, Mr. Cannon, in his remarks, and may be found in Cannon's Precedents, section 1510. In so far as legislation is concerned, with reference to the limitation of the number of officers, clearly, under the Holman rule and under this decision of former Speaker Longworth, such legislation is permitted on an appropriation bill, and under the Holman rule is rather encouraged.

The point of order of the gentleman from California raises the question of whether or not the fact that the stipulation of the date of September 30, 1932, when the provision would become effective, carries the operation of this legislation beyond the period of the fiscal year for which this particular appropriation bill is designed, and would make it such legislation on an appropriation bill as would be permitted under the Holman rule.

In the Holman rule itself no distinction is made between permanent and temporary legislation, because all legislation, unless by its terms temporary, is necessarily permanent until modified or repealed by subsequent legislation; and in looking for a precedent upon which to base a rational conclusion concerning that portion of this paragraph which stipulates that this reduction shall become effective after September 30, 1932, and thereafter be permanent law the Chair has found an illuminating precedent in the second session of the Sixty-fifth Congress.

The Chairman read the excerpt from the decision [2] referred to and continued.

Now, in the light of these decisions, it seems to the Chair that the reduction in the number of officers is no more permanent legislation than that providing for the abolishment of offices. The Chair overrules the point of order.

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[1] Fritz G. Lanham, of Texas, Chairman.

[2] Section 1505 of this work.

1512. On April 18, 1922,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

Not to exceed 200 graduates of the Naval Academy of the class of 1922 shall be commissioned as ensigns in the Navy, and the graduates to be commissioned shall be selected by the academic board of the Naval Academy after giving equal consideration to the scholastic standing and adaptability for naval service of each graduate: *Provided,* That each graduate of the Naval Academy of the class of 1922 who is not commissioned as a ensign in the Navy shall be paid mileage at the rate of 5 cents per mile from the Naval Academy to his home and a sum equal to three months' pay of a midshipman, such payments to be made from the respective appropriations in this act providing for the transportation and pay of midshipmen.

Mr. John E. Raker, of California, raised the question of order on the paragraph that it was legislation and did not retrench expenditures.

The Chairman[2] held:

In the bill there is a provision that not to exceed 200 graduates of the Naval Academy of the class of 1922 shall be commissioned as ensigns in the Navy. If this paragraph as a whole were not carried in the appropriation bill there would be graduated from the academy for this year 541, and they would be commissioned as ensigns in the Navy. According to the paragraph but 200 of these will not be commissioned, leaving 341 without commission. Clearly the amendment is germane to the bill, and it is within the Holman rule. It makes a reduction of an amount easy to be determined of the amount of the appropriation carried in the bill. Therefore it is in order and the Chair overrules the point of order.

1513. Language prohibiting an increase in the number of instructors at the Naval Academy was held not to come within the exceptions admitting legislation on appropriation bills.

On February 23, 1933,[3] the Committee of the Whole House on the state of the Union was considering the Navy Department appropriation bill, when the item appropriating for payment of the staff at the Naval Academy was reached.

Mr. Edward W. Goss, of Connecticut, raised the question that the item was not in order in that it included the following proviso:

Provided further, That the number of civilian and officer instructors at the Naval Academy shall not be increased during the fiscal year 1934.

After debate, the Chairman[4] sustained the point of order on the ground that while in certain contingencies the provision might result in a reduction of the number and salaries of officers of the United States, such retrenchment would not necessarily follow as a conclusive and inevitable result of the adoption of the amendment.

1514. A proposition to repeal law authorizing employment of officers was held to effect a reduction of the number and salary of officers of the United States and to be in order on an appropriation bill.

On April 18, 1922,[5] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Philip D.

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[1] Second session Sixty-seventh Congress, Record, p. 5678.

[2] Philip P. Campbell, of Kansas, Chairman.

[3] Second session Seventy-second Congress, Record, p. 4839.

[4] Wall Doxey, of Mississippi, Chairman.

[5] Second session Sixty-seventh Congress, Record, p. 5686.

Swing, of California, called attention to a point of order raised on the previous day on a paragraph providing for the reserve corps.

The Chairman [1] ruled upon the point of order as follows:

The provision against which the point of order is made is as follows:

"The authorization contained in section 2 of the naval appropriation act for the fiscal year 1921 for the employment of 500 reserve officers in the aviation and auxiliary service is hereby repealed."

The provision which is sought to be repealed is as brief as the reference to it. It reads as follows:

"Provided further, That 500 reserve officers are also authorized to be employed in the aviation and auxiliary services."

They are also authorized to be employed in the auxiliary and the aviation services, and the provision of the present act is to repeal that section. It necessarily results, in so far as the matters affected by it are concerned, in a reduction. Therefore the point of order is overruled.

1515. An amendment prohibiting payment of fees to officials under certain contingencies was held to retrench expenditures and to come within the exception to the rule against admission of legislation on appropriation bills.

On March 5, 1892,[2] the pension appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. George W. Fithian, of Illinois, offered this amendment:

Provided further, That no fee shall be paid to any member of an examining board unless personally present and assisting in the examination of applicant.

Mr. William W. Grout, of Vermont, raised a question of order on the amendment.

After debate, the Chairman [3] held the amendment to be in order as a retrenchment of expenditure.

1516. An amendment prohibiting counting of service as cadets at the Naval or Military Academies in computing service records of Army and Naval officers, thereby reducing longevity pay of such officers, was held to reduce the compensation of persons paid out of the Treasury of the United States and to come within the rule.

On March 26, 1924,[4] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Eugene Black, of Texas, offered the following amendment:

Provided, That nothing contained in section 11 of the act entitled "An act to increase the efficiency of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service," approved May 18, 1920, shall be construed as having repealed, amended, or modified the provision contained in the Army appropriation act approved August 24, 1912 (37 Stat. 594), reading as follows: "That hereafter the service of a cadet who may hereafter be appointed to the United States Military Academy or to the Naval Academy shall not be counted in computing for any purpose the length of service of any officer of the Army."

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[1] Horace M. Towner, of Iowa, Chairman.

[2] First session Fifty-second Congress, Record, p. 1792.

[3] Joseph H. Outhwaite, of Ohio, Chairman.

[4] First session Sixty-eighth Congress, Record, p. 5037.

Mr. Fiorello H. LaGuardia, of New York, made a point of order against the amendment.

The Chairman [1] said:

By the act of August 24, 1912, cadets of the United States Military Academy and of the Naval Academy were not permitted to count, in computing for the purpose of longevity pay, the length of service of such officers in the respective academies. It is contended that by the act approved March 18, 1920, this provision of the act of August 24, 1912, was repealed. The purpose of the amendment is to reenact the provision as contained in the act of August 24, 1912.

It is new legislation, but it necessarily tends to reduce the compensation of persons paid out of the Treasury of the United States, namely, such officers as are entitled to longevity pay and who would be prohibited from adding to the service upon which the longevity pay is based their terms of service in the respective academies at West Point and Annapolis. Therefore the amendment comes clearly within the provision of the Holman rule and is in order. The point of order is overruled.

1517. An amendment prohibiting appointment of new teachers and directing that vacancies in certain grades be filled with teachers from other grades was held to retrench expenditures.

On March 27, 1930,[2] while the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, this paragraph was reached:

Salaries: For personal services of teachers and libraries in accordance with the act approved June 4, 1924, $6,188,840: *Provided,* That teachers employed in kindergartens are hereby made eligible for transfer to teach in grades 1 to 4, inclusive, of the elementary schools.

Mr. Merlin Hull, of Wisconsin, made the point of order that the proviso proposed new legislation.

The point of order being sustained, Mr. Robert G. Simmons, of Nebraska, offered an amendment embodying the proviso in this form:

Provided, That as teacher vacancies occur during the fiscal year 1931 in grades 1 to 4, inclusive, of the elementary schools such vacancies shall not be filled by new appointments but shall be filled by the assignment of teachers now employed in kindergartens, and teachers employed in kindergartens are hereby made eligible to teach in the said grades.

Mr. Hull having against raised the same question of order, the Chairman [3] ruled:

The amendment offered by the gentleman from Nebraska does not attempt to conceal the fact that it is legislation, but it is legislation which comes clearly within the Holman rule. First, it is an amendment to an appropriation bill; second, it is germane to the paragraph under consideration; third, it retrenches expenditures. The purpose of the bill is clear that where a vacancy occurs in the position of teacher in the kindergarten the teacher may be promoted to that grade instead of appointing a new teacher. The amendment as drawn is a perfect example of legislation on an appropriation bill within the Holman rule.

1518. An amendment reducing the proportion of the fund appropriated from the Federal Treasury for the government of the District of Columbia from one-half to one-fourth was held to be in order as a reduction or retrenchment of expenditure.

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[1] Frederick R. Lehlbach, of New Jersey, Chairman.

[2] Second session Seventy-first Congress, Record, p. 6183.

[3] Fiorello H. LaGuardia, of New York, Chairman.

On March 3, 1892,[1] the District of Columbia appropriation bill was ordered to be engrossed and was read a third time, when Mr. David B. Henderson, of Iowa, offered a motion to recommit the bill to the Committee on Appropriations with instructions.

As an amendment to the motion, Mr. David A. De Armond, of Missouri, proposed instructions reducing the proportion of the District expenses to be paid out of the Federal Treasury from one-half to one-fourth.

Mr. Nelson Dingley, jr., of Maine, raised a question of order on the amendment.

The Speaker[2] said:

The Chair is of the opinion that it is not competent to do by indirection that which could not be directly done; that it is not competent for the House to direct the committee to do something which the committee itself could not do by reason of a rule restricting it from such action. Therefore, the question for the Chair to determine is, whether this amendment would be in order in Committee of the Whole. Concededly it changes existing law. It is in order, then, if it reduces expenditures, and is not in order if it does not. This bill, a copy of which is before the Chair, provides—

"That the half of the following sums named, respectively, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and the other half out of the revenues of the District of Columbia."

So there seems to be an amount of money in the Treasury recognized as the "revenues of the District of Columbia," distinct from money in the Treasury from general sources; and this proposition, as the Chair understands, is to reduce the amount appropriated from the general fund, that raised for general purposes. Therefore, the Chair thinks the amendment reduces expenditures, and is in order.

1519. An amendment reducing the proportional part contributed by the Government to the expenses of the government of the District of Columbia paid jointly from District revenues and the Federal Treasury was held to reduce the amount paid out of the Treasury and to be in order on an appropriation bill.

On December 10, 1914,[3] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

Be it enacted, etc., That one half of the following sums, respectively, is appropriated, out of any money in the Treasury not otherwise appropriated, and the other half, out of the revenues of the District of Columbia, in full for the following expenses of the government of the District of Columbia for the fiscal year ending June 30, 1916, namely:

Mr. Ben Johnson, of Kentucky, proposed an amendment as follows:

Amend, by striking out the words "one half of" and the words "out of the money in the Treasury not otherwise appropriated, and the other half out of the revenues of the District of Columbia," and the word "namely," and insert the following as an amendment thereto: That all moneys appropriated for the expenses of the government of the District of Columbia shall be paid out of the revenues of said District to the extent that they are available, and the balance shall be paid out of money in the Treasury of the United States not otherwise appropriated, but the amount to be paid from the Treasury of the United States shall in no event be as much as one-half of said expenses, and all laws in conflict herewith are hereby repealed."

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[1] First session Fifty-second Congress, Record, p. 1698.

[2] Charles F. Crisp, of Georgia, Speaker.

[3] Third session Sixty-third Congress, Record, p. 122.

Mr. James R. Mann, of Illinois, made the point of order that the amendment changed existing law and was not germane.

After extended debate, the Chairman [1] overruled the point of order.

1520. On May 1, 1918,[2] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

Be it enacted, etc., That one half of the following sums, respectively, is appropriated, out of any money in the Treasury not otherwise appropriated, and the other half out of the revenues of the District of Columbia, in full for the following expenses of the government of the District of Columbia for the fiscal year ending June 30, 1919, namely:

Mr. Warren Gard, of Ohio, offered this amendment:

Strike out all the words beginning with the word "that," down to the words "District of Columbia" and insert in lieu thereof the following:

"The following sums are appropriated out of the revenues of the District of Columbia to the extent that they are sufficient therefor, and the remainder out of any money in the Treasury not otherwise appropriated; but the amount to be paid from the Treasury of the United States shall in no event be as much as one-half of said expenses, in full for the following expenses for the government of the District of Columbia for the fiscal year ending June 30, 1919, except amounts to pay the interest and sinking fund on the funded debt of said District, of which amounts one half is appropriated out of the money in the Treasury not otherwise appropriated and the other half out of the revenues of the District of Columbia."

Mr. Thomas U. Sisson, of Mississippi, having raised a question of order on the amendment, Mr. Gard referred to a decision on a similar amendment offered to the District of Columbia appropriation bill in the Sixty-third Congress.

The Chairman [3] said:

The Chair has a recollection about that amendment, and if his memory serves him correctly it was very elaborately argued at that time, and the precedents were looked up, after which the point of order was overruled. Following that precedent, the Chair overrules the point of order.

1521. On June 4, 1919,[4] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was read:

Be it enacted, etc., That the following sums are appropriated out of the revenues of the District of Columbia to the extent that they are sufficient therefor and the remainder out of any money in the Treasury not otherwise appropriated, but the amount to be paid from the Treasury of the United States shall in no event be as much as one-half of said expenses, in full for the following expenses of the government of the District of Columbia for the fiscal year ending June 30, 1920, except amounts to pay the interest and sinking fund on the funded debt of said District, of which amounts one half is appropriated out of any money in the Treasury not otherwise appropriated and the other half out of the revenues of the District of Columbia, namely.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the paragraph changed existing law and was not in order on an appropriation bill.

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[1] John N. Garner, of Texas, Chairman.

[2] Second session Sixty-fifth Congress, Record, p. 5912.

[3] John N. Garner, of Texas, Chairman.

[4] First session Sixty-sixth Congress, Record, p. 657.

The Chairman [1] ruled:

The gentleman's statement, as the Chair understands it, is borne out clearly by a long line of rulings. The organic act of June 11, 1878, provides that, to the extent to which Congress shall approve of said estimates, Congress shall appropriate the amount of 50 per cent thereof and the remaining 50 per cent of such approved estimates shall be levied and assessed upon the taxable property and privileges in the said District other than the property of the United States and the District of Columbia.

The language of the bill provides—

"That the following sums are appropriated out of the revenues of the District of Columbia to the extent that they are sufficient therefor, and the remainder out of any money in the Treasury not otherwise appropriated."

It is, of course, clear that this is a change of existing or basic law. It would be within the rule which does not allow legislation upon appropriation bills if it were not within one of the exceptions of such rule. The exception of the rule, called to the attention of the Chair by the gentleman from Georgia, Mr. Crisp, is the exception that provides that if by the amendment offered or the change in the law the appropriations are reduced, the exception prevails and the rule to that extent is nullified.

In this case it is quite clear that if the language of the bill remains a reduction of expenditures from the Treasury of the United States must necessarily result. The very point has been decided in two recent cases exactly in point except the positions were reversed. The gentleman from Texas, Mr. Garner, I think, was in the chair when the bill as presented contained the provision exactly in accordance with the organic act:

"That one-half of the following sums, respectively, be appropriated out of any money in the Treasury."

And in two successive years the gentleman from Texas, Mr. Garner, held, after an elaborate argument in the first instance, that the language of an amendment offered as a substitute, almost, if not exactly, identical with the language which is now the first section of this bill, was in order as an amendment to the original law, because of the fact that it reduced expenditures.

So it seems to the Chair it is quite clear that it is the duty of the Chair to hold that the point of order against the first section on that account is not well taken, and the objections are overruled.

1522. On March 27, 1920,[2] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Charles R. Davis, of Minnesota, offered this amendment:

That the following sums are appropriated out of the revenues of the District of Columbia to the extent that they are sufficient therefor and the remainder out of any money in the Treasury not otherwise appropriated, but the amount to be paid from the Treasury of the United States shall in no event be as much as one-half of said expenses, in full for the following expenses of the government of the District of Columbia for the fiscal year ending June 30, 1921, except the amounts to pay the interest and sinking fund on the funded debt of said District, of which amounts one half is appropriated out of any money in the Treasury not otherwise appropriated and the other half of the revenues of the District of Columbia, namely.

Mr. James R. Mann, of Illinois, reserved a point of order on the amendment.

After debate, the point of order was withdrawn and the amendment was agreed to.

1523. To a provision for the purchase of airplanes for use of the Post Office Department an amendment providing for their transfer from the War Department, while conceded to be legislation, was held to be germane

[1] Horace M. Towner, of Iowa, Chairman.

[2] Second session Sixty-sixth Congress, Record, p. 4926.

and to reduce the amount of money covered by the bill and therefore to be in order on an appropriation bill under the rule.

On December 17, 1918,[1] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

And provided further, That the Secretary of War is hereby directed to deliver immediately to the Postmaster General 100 De Haviland 4 airplanes, 100 Handley-Pages, 10 Glen Martin day bombers, all planes completely assembled, and with the necessary spare parts. Also 100 extra Liberty engines with spare parts, 50 Hispano-Suiza engines of 300-horsepower motors, and 20 Hispano-Suiza engines with 150-horsepower motors. The same to be out of any equipment that the War Department has on hand or under construction. The War Department appropriation to be credited with the equipment turned over to the Post Office Department.

Mr. Finis J. Garrett, of Tennessee, proposed the following amendment:

Strike out the paragraph and insert:

"For inland transportation by railroad routes and airplanes, $59,825,000: *Provided,* That not to exceed $1,000,000 be expended for payment of freight and incidental charges for the transportation of mails conveyed under special arrangements in freight trains or otherwise: *Provided further,* That out of this appropriation the Postmaster General is authorized to expend not exceeding $500,000 for the purchase of airplanes and the operation and maintenance of airplane service between such places as may be determined: *Provided further,* That the Secretary of War is hereby directed to deliver immediately to the Postmaster General 100 De Haviland 4 airplanes, 100 Handley-Pages, 10 Glen Martin day bombers, all planes completely assembled and with the necessary spare parts; also 100 extra Liberty engines with spare parts, 50 Hispano-Suiza engines with 300-horsepower motors and 20 Hispano-Suiza engines with 150-horsepower motors, the same to be out of any equipment that the War Department has on hand or under construction, the War Department appropriation to be credited with the equipment to be turned over to the Post Office Department: *And provided further,* That separate accounts be kept of the amount expended for airplane service."

Mr. William R. Green, of Iowa, made a point of order against that portion of the amendment providing for the transfer of property from the War Department to the Post Office Department.

The Chairman[2] held:

The gentleman from Tennessee offered a substitute for the amendment of the gentleman from Pennsylvania, but for the purpose of this decision the Chair can state that the amendment is a substitute for the language in the appropriation bill, and the effect of the amendment is to reduce the amount appropriated in the bill from $61,825,000 to $55,825,000, and it provides, in lieu of making an appropriation of $2,185,000 available for the purchase, maintenance, and the operation of airplanes in the management of the inland postal service of the United States, that the Secretary of War shall turn over to the Post Office Department certain airplanes owned by the Government, to be used in that service, and so forth. Now, the question presents itself to the Chair under the point of order made whether this amendment is germane and if it is legislation on an appropriation bill, whether it is in order under the rules of the House. Clause 2 of Rule XXI of the House provides:

"Nor shall any provision in any such bill or amendment"—

Referring to general appropriation bills—

"thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States"—

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[1] Third session Sixty-fifth Congress, Record, p. 596.

[2] Charles R. Crisp, of Georgia, Chairman.

Of course, the amendment does not do that—

"by the reduction of the compensation of any person paid out of the Treasury of the United States"—

The amendment does not do that—

"or by the reduction of amounts of money covered by the bill."

The amendment here reduces the amount covered by the bill by over a million dollars. Then the question presents itself to the Chair to determine whether the amendment is germane and whether the legislation proposed in the amendment is germane and logically follows the reduction of the amount covered in the bill.

Now, the Chair has the greatest respect for the decision of the able gentleman who ruled a few moments ago on this amendment without the amount in the bill being reduced, and the Chair heard that decision and the Chair understood the point of order to be sustained because the amendmentment legislated, and legislation is not in order on an appropriation bill except in special cases. The present occupant of the chair is forced to conclude that the subject we are dealing with is airplanes for the use of Government in the Postal Service, and that an amendment proposing airplanes owned by the Government under the control of another branch be turned over to the Postal Department is germane. And while it is legislation, in the opinion of the Chair it is germane to the provision of the bill we are discussing; by the amendment the amount appropriated in the bill is reduced, and the reduction naturally follows the legislation proposed; and, therefore, under the Holman rule, the Chair overrules the point of order.

1524. Amendments nominally reducing appropriations while providing for sale of tractors owned by the War Department, and for their distribution to the States, were respectively held to retrench expenditures by reduction of the amount of money covered by the bill and therefore to be in order under the rule.

On February 17, 1921,[1] the fortifications appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read as follows:

For alternation and maintenance of the mobile artillery, including the purchase and manufacture of machinery, tools, and materials necessary for the work and the expenses of the mechanics engaged thereon, $600,000: *Provided,* That the Secretary of War is authorized and directed to sell as soon as possible after the approval of this act, upon such terms and under such conditions as he deem most advantageous to the best interests of the Government, 2,000 of the tractors owned by the War Department.

A point of order raised by Mr. Warren Gard, of Ohio, against the proviso in the paragraph was sustained by the Chairman, and Mr. James R. Mann, of Illinois, offered this amendment:

Strike out "$600,000" and insert in lieu thereof "$590,000" and the following: *"Provided,* That the Secretary of war is authorized and directed to sell, as soon as possible after the approval of this act, upon such terms and under such conditions as he may deem most advantageous to the best interests of the Government, 2,000 of the tractors owned by the War Department."

Mr. Gard raised the question of order on the amendment and said:

Mr. Chairman, the rule which the gentleman has invoked in a very strained sense, and I say that with the utmost respect, is the application of the so-called Holman rule in respect to a reduction of expenditures. In so far as the reduction of the amount is concerned I concede that the rule is properly invoked, but there is a twofold purpose in the amendment. One purpose is to reduce the amount from $600,000 to $590,000, and that is a completed thing. Apart from that there follows a proviso in the gentleman's amendment which is entirely separate and distinct from

[1] Third session Sixty-sixth Congress, Record, p. 3343.

the first part of the amendment, just as much so as is the original proviso separate and distinct from the language contained in the bill.

In other words, it is an effort on the part of the gentleman from Illinois to obtain action upon that which the Chair has previously ruled out of order by reason of its being legislation upon an appropriation bill and new legislation upon an appropriation bill, which has been held to be out of order times without number in the different ruling which have been invoked ever since these appropriation bills have been considered in the House. Therefore I call to the attention of the Chairman again that my own idea about it is this: That there being two particular parts to this amendment proposed by the gentleman from Illinois, the one being good and the other with relation to a proviso, and the proviso being in no way connected with the first part, not being germane even to that for the purchase and manufacture of machinery, tools, and materials necessary for the work and the expenses of the mechanics engaged thereon—the language of the proviso is not that there shall be purchased, that there shall be alternations and maintenance, but that there should be sold as soon as possible by the Secretary of War 2,000 of these tractors upon such terms as he may deem advisable, so that to my mind it is not alone not germane to that which has gone before, but it is clearly unassociated with the application of the reduction of $10,000 which is, of course, offered for the purpose of evasion—and the reintroduction of the amendment can be for no other purpose—and to my mind the entire amendment is offered for the purpose of securing in an evasive way under the cloak of parliamentary law that which the Chair a moment ago has ruled out.

To this argument Mr. Mann replied:

Mr. Chairman, the gentleman from Ohio said this was an evasion of the rule. Why, this is a compliance with the rule. The gentleman invokes a technical rule of the House which prohibits legislation upon an appropriation bill. That rule was applicable to the provision which was brought into the House in the bill, but the very rule which the gentleman invokes provides that legislation shall be in order when accompanied by a reduction of the amount of money covered by the bill. That is an absolute compliance with the rule. The rule, of course, is technical. I have complied with the technical provisions of the rule and with the spirit of the rule. The gentleman from Virginia, Mr. Slemp, stated that this provision of the bill carried an item of appropriation for the alteration and maintenance of those tractors, so that any provision relating to those tractors is germane to the provisions of the bill. Now, the amendment which I have offered proposes to reduce the amount of the bill, and thereby be able to dispose of some of the tractors. Of course, it is legislation, but it is legislation authorized by the language of the rule, and I think clearly authorized by the decisions. Shortly after this rule was adopted in the House 10 years ago on the Post Office appropriation bill I offered an amendment making a slight reduction in the amount in one item of the bill and providing that mail stations and post offices should not be opened on Sundays for the delivery of mail. A point of order was made. I read the rule. I had complied with the rule, and the two cases are identical and are on all fours. The point of order was overruled in that case, and it has been the law ever since, because it was enacted into law. Of course, offered without the provision made by the rule it would have been subject to a point of order; offered under the terms of the rule it was not subject to a point of order.

The Chairman [1] ruled:

Legislation to be in order under the Holman rule must be directly instrumental in a reduction of expenditures. This identical question was raised on an appropriation bill. On January 25 of this year the gentleman from New York, Mr. Hicks, in the chair, an amendment was offered and sustained making a reduction, as follows:

"Amendment offered by Mr. Anderson to the original Anderson amendment: Strike out '$208,500' and insert '$150,000,' and add the following: *'Provided,* That at any time during the fiscal year 1922 or thereafter, then the Secretary of Agriculture shall determine that the interests of the Government will be subserved thereby, he is hereby authorized to appraise the buildings, machinery, marine equipment, kelp harvesters, boats, leasehold or contract rights, and all other

[1] Cassius C. Dowell, of Iowa, Chairman.

property of whatever nature or kind appertaining to the experimental kelp potash plant of the Department of Agriculture situated at Summerland, Calif., and to sell the same at public or private sale.'"

And so forth.

It appears to the Chair that the amendment just read raises identically the same question involved in this amendment, and the Chair overrules the point of order.

Thereupon Mr. Sydney Anderson, of Minnesota, offered an amendment to the amendment as follows:

Amendment by Mr. Anderson to the amendment offered by Mr. Mann, of Illinois: At the end of the Mann amendment insert: "*Provided further,* That the Secretary of War is hereby authorized and directed to transfer and deliver to the Secretary of Agriculture for distribution among the highway departments of the several States for use on roads constructed in whole or in part by Federal aid 1,250 tractors owned by the War Department."

A point of order being made against the amendment to the amendment by Mr. James W. Good, of Iowa, the Chairman said:

This amendment, it occurs to the Chair, is clearly legislation. The amendment of the gentleman from Illinois was an amendment which did in fact reduce the expenditure and came within the Holman rule. The Chair sustains the point of order.

Mr. Anderson then proposed the following amendment to the amendment:

Amendment by Mr. Anderson to the amendment offered by Mr. Mann, of Illinois: Strike out "$590,000" in the Mann amendment and insert in lieu thereof "$580,000" and add the following:

"Provided further, That the Secretary of War is hereby authorized and directed to transfer and deliver to the Secretary of Agriculture for distribution among the highway departments of the several States, for use on roads constructed in whole or in part by Federal aid, 1,250 tractors owned by the War Department."

A point of order presented by Mr. Good, against the amendment in its modified form was overruled by the Chairman on the ground that it provided a reduction in the amount covered by the bill and therefore came within the rule.

1525. Discussion as to distinction between application of the Holman rule and a simple limitation.

To bring an amendment within the rule, "reductions of amounts of money" must apply to amounts covered by the bill.

On January 27, 1922,[1] the independent offices appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read a paragraph providing an appropriation of $350,000 for expenses of the Shipping Board.

Mr. Frederick W. Dallinger, of Massachusetts, offered the following amendment to be inserted as a new paragraph:

No part of the moneys appropriated in each or any section of this act, or which is now available for the use of any independent executive bureau, board, or commission under existing law, shall be used or expended for the purchase, acquirement, repair, or reconditioning of any vessel, commodity, article, or thing which, at the time of the proposed purchase, acquirement, repair, or reconditioning, can be manufactured, produced, repaired, or reconditioned in each or any of the Government navy yards or arsenals of the United States for a sum less than it can be purchased, acquired, repaired, or reconditioned otherwise.

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[1] Second session Sixty-seventh Congress, Record, p. 1820.

Mr. William R. Wood, of Indiana, having made a point of order against the amendment, Mr. Dallinger contended that it provided for a reduction of expenditures and was in order under the Holman rule.

The Chairman [1] held:

The gentleman from Indiana makes the point of order against the amendment offered by the gentleman from Massachusetts, although in the nature of a limitation and restriction upon the expenditure of money appropriated or provided for in the pending bill, the language "or which is now available for use of any independent executive, bureau, board, or commission under existing law," applies to legislation heretofore enacted. The Chair would state that the rule the gentleman from Massachusetts relies upon, in the judgment of the Chair, does not apply or permit a limitation or restriction of the character of the gentleman's amendment upon moneys heretofore appropriated for or provided in previous legislation. The Chair sustains the point of order.

Mr. Dallinger then proposed the amendment in the following form:

No part of the moneys appropriated or made available by this act shall be used or expended for the purchase, acquirement, repair, or reconditioning of any vessel, commodity, article, or thing which, at the time of the proposed purchase, acquirement, repair, or reconditioning can be manufactured, produced, repaired, or reconditioned in each or any of the Government navy yards or arsenals of the United States for a sum less than it can be purchased, acquired, repaired, or reconditioned otherwise.

In debating a point of order made against the amendment by Mr. Wood Mr. James R. Mann, of Illinois said:

Mr. Chairman, the gentleman made a very able argument upon the theory that this amendment is offered under the so-called Holman rule.

I do not so understand it. The Holman rule, which is a part of paragraph 2, Rule XXI, is only a provision which affects legislation proposed on an appropriation bill.

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order"—

Unless so and so.

The right of Congress to make an appropriation and the right to refuse an appropriation is quite evident. There is no power in the Government which can compel them to make an appropriation; and, having the right to refuse an appropriation, it has always been held that you can make an appropriation with the limitation as to its expenditure. We could make an appropriation to the Shipping Board with the provision that no part of it could be paid to any but red-headed men, if we chose to do so. A man would lose his job if his hair turned gray. We can make an appropriation with any limitation which is not an affirmative change of law. As I heard this amendment read, it is a pure limitation, it seems to me, on the appropriation, which can not be expended in a certain way. We could put a limitation in which would require double the amount of expense, and we sometimes do. As a limitation it does not come within the Holman rule. If it comes within the Holman rule, the face of the amendment speaks for itself. It says it can not be expended unless it would cost more than it would in a navy yard. Whether it will cost more may be a matter of speculation, but on the face of the amendment it must cost less in the navy yard.

The Chairman ruled:

The gentleman from Massachusetts offers an amendment which he stated was offered as an imitation, which read as follows:

"No part of the moneys appropriated or made available by this act shall be used or expended for the purchase, acquirement, repair, or reconditioning of any vessel, commodity, article, or thing which, at the time of the proposed purchase, acquirement, repair, or reconditioning,

[1] Joseph Walsh, of Massachusetts, Chairman.

can be manufactured, produced, repaired, or reconditioned in each or any of the Government navy yards or arsenals of the United States for a sum less than it can be purchased, acquired, repaired, or reconditioned otherwise."

That is offered to a paragraph, beginning in line 6 and ending in line 19, but it applies to the appropriation made available in the pending bill. It raised a question of fact to be determined by those who make the expenditure at the time of the proposed expenditure for the purchase of a vessel, the acquirement of a vessel, the repair of a vessel, or for the reconditioning of a vessel, or at the time of the purchase of a commodity or other thing, namely, whether, as the amendment states, at the time of the purchase, acquirement, and so forth, the same can be manufactured, produced, repaired, or reconditioned at Government navy yards or arsenals for a less sum. As the gentleman from Illinois, Mr. Mann, well stated, the power of making appropriations rests with Congress, and it is within the power of Congress, in making an appropriation, to make such limitations there as are within the rules of the House.

In the judgment of the Chair this does not repeal or modify section 12 of the shipping act, which was brought to the attention of the Chair by the gentleman from Virginia and the gentleman from Indiana. That is still the law, but with reference to appropriations in this act they can not be used, nor can any funds made available by this act be used for these purposes if the expenditure for the same purpose would be less if made in or paid to a Government navy yard or arsenal.

Now, the precedents in Hinds' are numerous, and there are several which hold limitations somewhat similar to this as being not in order. But in many instances where the precedents in Hinds' are adverse to this amendment being within the rule, the amendments have imposed additional duties upon certain Government officials or departments, and have required them to perform functions which are not specifically laid down in the law. In the opinion of the Chair this matter raises a question of fact relative to a proposed expenditure to be determined by the authority making the expenditure, and this can be determined without imposing additional duties or in any way amending the law creating the organization which is to have charge of the expenditure. In the opinion of the Chair this amendment, as proposed by the gentleman from Massachusetts is such a limitation as comes within the rules of the House, and many similar amendments have heretofore been permitted under many precedents in Hinds', and therefore the Chair overrules the point of order.

1526. An amendment proposing legislation is in order on an appropriation bill if it provides for a reduction in the amount of money covered by the bill.

On January 19, 1924,[1] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. To a paragraph appropriating a lump sum of $279,640 for salaries of personnel in the office of the Secretary of the Interior, Mr. Sid C. Roach, of Missouri, offered this amendment:

Strike out the figures "$279,640" and insert in lieu thereof the figures and words following: "$222,022, no portion of said amount to be used in paying to any person employed in the Department of the Interior a higher rate of salary than was paid for the same character of service rendered by such person during the last preceding fiscal year."

Mr. Thomas L. Blanton, of Texas, made a point of order on the amendment and argued:

It does not come within the Holman rule for the one and good reason that it does not show on its face that it will reduce any salary. To come within the House rule that must be clearly apparent on the face of the amendment. In deciding a question within or without the

[1] First session Sixty-eighth Congress, Record, p. 1172.

Holman rule the Chairman does not have the right to go to the hearings, he does not have to examine the reclassification act, but it must be apparent to him clearly, from a reading of the amendment, that on its face it is a retrenchment in expenditures, and nowhere is it shown in the gentleman's amendment that it retrenches a single salary, but it might create a dozen deficiencies.

The Chairman [1] ruled:

It seems clear to the Chair that if the Roach amendment were adopted, expenditures from the Treasury would be retrenched, and this is shown on the face of the bill by a reduction that could be made in the amount carried in the bill itself. It therefore complies with the basic requirement of the Holman rule that it shall retrench expenditures. The retrenchment may be effected in one of three ways: First, by the reduction of the number and salary of officers of the United States; second, by the reduction of the compensation of any person paid out of the Treasury of the United States; or third, by the reduction of amounts of money covered by the bill. The amendment of the gentleman from Missouri may accomplish all of these things, although it is difficult or impossible for the Chair to determine as to the first and second ways; but under the third clause of the rule there would seem to be no doubt, for the proposed amendment materially reduces the amount covered by the bill. The Chair therefore overrules the point of order.

1527. A retrenchment of expenditure relied upon to bring a proposition within the exception to the rule prohibiting legislation on an appropriation bill must be apparent from its terms and a retrenchment conjectural or speculative in its application, or requiring further legislation to effectuate, is not admissible.

The Chairman of the Committee of the Whole having taken an active part in the discussion of a point of order, the question was by unanimous consent passed over to be later raised in the House.

On April 27, 1876,[2] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read:

That the management of all Indian affairs, and of all matters arising out of Indian relations be, and the same is hereby, transferred from the Department of the Interior to the War Department, and the same is hereby placed under the Secretary of War agreeably to such regulations as the President may prescribe: *And provided further,* That the Office of Commissioner of Indian Affairs is hereby abolished, and the execution of all laws and parts of laws applicable to the management of Indian affairs and of matters arising out of Indian relations is hereby lodged with the Secretary of War: *And provided further,* That the duties now being intrusted to and performed by Indian agents and other officials and employees of every kind and description will be performed by officers, soldiers, and employees of the Army.

A question of order on the paragraph being raised by Mr. Julius H. Seelye, of Massachusetts, Mr. James A. Garfield, of Ohio, submitted this request:

I wish to make a suggestion which may avoid the discussion of the point of order at this time. The present occupant of the Chair is known to have taken an active part in the discussion of this bill, and it will be somewhat embarrassing for him to decide the question. I suggest therefore, by unanimous consent, that an agreement be entered into, the point of order shall be allowed to be raised to this section in the House, and that it be passed over at this time in the committee to be raised hereafter in the House. It will relieve the present occupant of the Chair of embarrassment and at the same time cause no delay to the bill.

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] First session, Forty-fourth Congress, Record, p. 2811.

There being no objection, the request was agreed to and the question was raised and debated at length in the House on the following day when the Speaker [1] rendered this decision: [2]

The Chair desires to say that he has been more than willing to hear this somewhat lengthy discussion upon the point of order raised upon the fourth section of the pending bill, because that point is novel and intrinsically of very great importance to the House and to the country.

In the first place, to what considerations, in the making of a ruling, has the Chair a right to look? Can he go outside of this bill and inquire generally, as it is the right and duty of a Member upon the floor of this House to do, what will be the effect of this fourth section; or is it his duty to limit his inquiries to the face of the bill, to the specific terms of the section in question, the law of the land so far applicable, and the parliamentary rules and practices of this House? In the judgment of the Chair, the range of his investigation is the latter, and he can not properly go beyond these three considerations. The language of the amended rule is:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, nor shall any provision in any such bill or amendment thereto changing existing law be in order except such as, being germane to the subject matter of the bill, shall retrench expenditures."

Much has been said on the question whether this fourth section is germane to the subject matter of this bill. The subject matter of the bill is indicated in its title, "A bill making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1877, and for other purposes." The purpose of the bill, further, is to regulate the salaries of officers, and in some cases to retrench expenditures by the abolition of officers and necessarily of their salaries. In other words, in the judgment of the Chair, the subject matter of this bill is so comprehensive that it can not be said that a provision proposing in specific terms the abolition of numerous officers is not germane to a bill which regulates many offices and fixes the salaries thereto attached and abolishes other offices and their salaries. The Chair has to say, therefore, in conclusion on this point, that he is not embarrassed by the question whether or not this section is germane to the subject matter of this bill.

The embarrassment of the Chair arises out of the latter portion of the amended rule, "shall retrench expenditures." Does this section retrench expenditures? To answer that inquiry the Chair can only look at the section itself, to the existing law, and to the rules of parliamentary practice and proceedings in this House. The Chair sees that in this bill there is no provision for the practical management of this Bureau of Indian Affairs, if it shall be transferred as proposed by this section; there is no appropriation for that purpose, no regulation of and no indication how the duties of that bureau after it is transferred shall be performed or by whom those duties shall be performed, other than in the somewhat general language of the section itself. It is true the section provides—

"That the Office of Commissioner of Indian Affairs is hereby abolished, and the execution of all laws and parts of laws applicable to the management of Indian affairs and of matters arising out of Indian relations is hereby lodged with the Secretary of War; and that the duties now being intrusted to and performed by Indian agents and other officials and employees of every kind and description will be performed by officers, soldiers, and employees of the Army."

It is entirely apparent upon the face of this section that the section itself contemplates, distinctly and unequivocally, further and additional and important legislation on this same subject, in order to effectuate the intention of the House as evidenced in this provision. In other words, the section in itself, if enacted, will, of necessity, be incomplete; it will not accomplish the purposes intended by its movers and friends without the aid of additional legislation. It can not be said, therefore, that, if enacted, it will be such an amendment as "shall retrench expenditures" as the mere result of its own enactment in this bill, unaided by future essential and appropriate legislation.

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[1] Michael C. Kerr, of Indiana, Speaker.

[2] See section 3885 of Hinds' Precedents.

The inquiry then recurs, Is this amendment such a one as by its own force and the other provisions of this bill retrenches expenditures? Does that appear? The Chair might answer that to abolish an office is the retrenchment of expenditure; and if such abolition were begun and perfected by this bill the Chair would have no hesitation in holding that such an abolition did accomplish a retrenchment of expenditure; there would then be no doubt on the point. The Chair might also hold that, because it requires the duties now intrusted to Indian agents to be hereafter performed by soldiers, it is the intention of the framers of the provision to require those duties to be performed by those persons without additional compensation. But that does not appear; that is not a perfected result that can follow the enactment of this section into law. Nothing of that kind can result except by the aid of further and additional legislation.

The Chair must take official notice of the fact that in this bill no appropriation is made for the Army or for the performance of any of its duties in any of its several bureaus or departments; and the Chair must further officially know that in the ordinary course of legislative proceedings such an appropriation bill must be introduced and enacted before the session expires as of necessity will embrace the further and more complete regulation of this entire subject. Now, the Chair can not look forward into that legislation and say, upon anything that appears on the face of this section, that such legislation will in all respects coincide with, sustain, or affirm the provisions of this section and carry out the proposed retrenchment indicated in it. In other words, the Chair desires it to be distinctly understood that the point upon which his decision in this case turns is that from the face of the section it does not appear that the provision comes within the requirement of this rule, which is that it shall be germane to the subject matter of the bill and "shall retrench expenditures." It does not affirmatively appear upon the face of the bill or the laws of the land or the usual and customary mode of proceeding of this body that this section, if enacted in this bill, will retrench expenditures.

In the judgment of the Chair, this rule should have liberal construction in the interests of retrenchment. The purpose of the rule is most beneficent and proper, and the Chair under any circumstances not attended with extreme doubt would hold it to be his duty to enforce the rule.

The Chair would be further disposed, acting upon a principle of law, to assume prima facie that the judgment of the House in its construction of this rule should be adopted by the Chair where that judgment had been reached after discussion and consideration. But here there is such a novel presentation of the proposition to retrench, having relation to matters to be done in the future, being in itself essentially incomplete, that the Chair does not feel at liberty to decide that the section is in order; and he therefore sustains the point of order.

1528. On June 6, 1876,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union.

A point of order made by Mr. George W. McCrary, of Iowa, was pending on section 2 of the bill transferring the Indian Bureau to the War Department.

The Chairman[2] ruled:

Then the Chair will first decide the pending point of order upon the second section of the bill.

At the sitting of the committee for the consideration of this bill on Saturday last a point of order was raised on section 2 of the original bill, which section transfers the management and control of Indian affairs from the Interior to the War Department. The point of order was stated by the gentleman raising it to be this: That the section proposes new legislation, and that it does not appear on the face of the record that it will retrench expenditures. The decision of the Chair upon this question of order was reserved until the committee should again resume the consideration of the bill. The Chair will now submit his decision.

Since the amendment to rule 120 of this House, which was adopted January 17 of this session, there has been considerable discussion as to its interpretation and several rulings have been

[1] First session Forty-fourth Congress, Record, p. 3620.

[2] William M. Springer, of Illinois, Chairman.

made upon it. In view of the exhaustive arguments which have been made upon the rule as amended, and the important ruling thereon by the honorable Speaker of the House on the 28th of April, the Chair could hardly err in the decision of the point of order now raised. The rule has been so often quoted that it is scarcely necessary to again read it, as it is doubtless familiar to every Member. But as this question is in many respects similar to that decided by the Speaker on the 28th of April, the Chair has given the subject most serious consideration, and therefore asks the indulgence of the committee in again reading the rule:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress; nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject matter of the bill, shall retrench expenditures."

This rule has for its object the exclusion from appropriation bills of subjects of general legislation. No provision reported in such bill or amendment thereto which changes existing law is in order, except it be germane to the subject matter of the bill and retrenches expenditures.

Whether a particular provision be germane to the subject matter or not is a question which will generally admit of little doubt, and in this case it seems to be admitted that the section under consideration does not contravene the rule; for this bill related exclusively to Indian affairs, and the section under consideration, taken in connection with the other provisions thereof, completely disposes of the whole subject. The section is in harmony with the other provisions of the bill, and, considered as a whole, a system of Indian control and management is provided, taken in connection with existing laws and treaties, which is complete in itself, effective in its operation, and not dependent upon other or further legislation. The section is therefore undoubtedly germane to the subject matter of the bill.

But how shall the Chair determine whether a particular provision of a bill or a proposed amendment thereto does retrench expenditures? Two rules for the determination of this question have been suggested: First, that the Chair may hear arguments, consider estimates, compare official reports, and from all these give his opinion as to whether the provision in the bill or the proposed amendment does or does not retrench expenditures. If this rule were the correct one the Chair would have no other guide than the weight of the arguments pro and con and his own conjectures upon the probabilities of the issue. Such a rule of interpretation is foreign to the province of the Chair, and if assumed would be trenching upon the privileges of the committee and the House.

The other rule for the determination of this question is this: That the Chair will not resort to evidence "aliunde" or to speculation or argument, but will limit his inquiries to the face of the bill, to the specific terms of the section in question, the law of the land, and the parliamentary rules and practices of this House. This construction of the rule is that laid down by the honorable Speaker of this House, and is in perfect accord with the views of the present occupant of the chair. In deciding a question of this kind of the Chair sits as a court upon the hearing of a motion to quash an indictment, and not as a jury to weigh evidence and determine issues of fact. And the Chair, in deciding questions of order such as that raised upon the section under consideration, will consider such facts only as a court would take official cognizance of in construing a statute.

Does this section, then, upon which the question of order has been raised, by its own force and the other provisions of this bill retrench expenditures? The section is as follows, and it has evidently been drawn with great care by the committee:

"SEC. 2. That the office of the Commissioner of Indian Affairs is hereby abolished, and the salary heretofore paid to such officer shall cease, and the offices of superintendents of Indian affairs, clerks to the same, of agents and special agents, interpreters, inspectors, and all other employees of the Indian Bureau are hereby abolished; and the salary heretofore paid to such officers respectively shall cease; and the duties now intrusted to and performed by said officers of every kind and description shall be performed by officers, soldiers, and employees of the Army under the direction of the Secretary of War; and they shall receive no additional pay by reason of the performance of the duties aforenamed thus transferred to them, other than the pay they may receive as officers and employees of the Army; and the Secretary of War shall assign them their

duties in connection with the supervision, control, and management of Indian affairs under such regulations as the President may prescribe: *Provided*, That the execution of all laws and parts of laws applicable to the management and control of Indian affairs and of matters arising out of Indian relations is hereby transferred to and placed under the control of the Secretary of War, who is hereby empowered to and shall exercise the same authority in the control of all Indian affairs heretofore had by the Secretary of the Interior, and all laws and parts of laws in conflict with the provisions of this act are hereby repealed."

If this section were in the words of section 4 of the legislative, executive, and judicial appropriation bill, which section the Speaker ruled out of that bill, that Chair would have but one course to pursue, and his decision would be simply a reaffirmation of that of the Speaker. But there is a material difference in the sections. The objectionable section of the legislative, executive, and judicial appropriation bill is as follows:

"SEC. 4. That the management of all Indian affairs, and of all matters arising out of Indian relations, be, and the same are hereby, transferred from the Department of the Interior to the War Department, and the same are hereby placed under the Secretary of War agreeably to such regulations as the President may prescribe: *And provided further*, That the Office of Commissioner of Indian Affairs is hereby abolished, and the execution of all laws and parts of laws applicable to the management of Indian affairs and of matters arising out of Indian relations is hereby lodged with the Secretary of War: *And provided further*, That the duties now being intrusted to and performed by Indian agents and other officials and employees of every kind and description will be performed by officers, soldiers, and employees of the Army."

The Speaker, in his ruling upon this section, held that upon its face it was incomplete, and that it contemplated distinctly and unequivocally further and additional legislation in order to effectuate the intention of the House as evinced therein. And, for this reason, it did not appear that by its own enactment there would be a retrenchment of expenditures. The Speaker held that it was impossible for the Chair to look into the future and determine whether the future necessary legislation would, in all respects, sustain the provisions of the section and carry out the proposed retrenchment indicated in it.

Futhermore, the Speaker held, in deciding the point of order raised on section 4, that the abolition of an office is the retrenchment of expenditure, and that, if such abolition had been begun and perfected by that bill, he would have had no hesitation in holding that such an abolition did accomplish a retrenchment of expenditures. But section 4 did not provide, as does section 2 of the bill under consideration, that the duties imposed upon Army officers and soldiers should be performed by them without additional compensation.

On account of these uncertainties and the incomplete legislation proposed in section 4 of the legislative bill, the Speaker held that it did not appear that the provision came within the requirement of the rule.

But is the section under consideration subject to the objections urged against section 4 of the legislative bill? This section proposed distinct, clearly defined, and perfect legislation. If enacted into law it will transfer the whole management of Indian affairs from the Interior Department to the War Department without the necessity of any further legislation whatever. It is true that some regulations are to be prescribed by the President and others by the Secretary of War; but the prescribing of such regulations is not legislation, but mere matter of detail, the regulation of which is conferred in similar cases upon all the heads of departments. But the section goes further and absolutely abolishes a large number of offices and discontinues the salaries thereof; and it provides that the officers, soldiers, and employees of the Army shall perform the duties of the persons heretofore filling such offices, without additional compensation.

Here, then, is manifestly and, by the very terms of the provision itself, in the light of existing law, a large reduction of expenditures. The Chair will take official cognizance of the fact that the law as it exists appropriates for the current year, for the salaries and expenses of the officers and agents, whose offices and positions are abolished by this section, over $200,000; and that this bill appropriates in the aggregate about fourteen hundred thousand dollars less than was appropriated for the same purposes for the current year. Considering the vast number of offices abolished by the section under consideration, it is evident that this transfer of the manage-

ment of Indian affairs from the Interior to the War Department contributes largely to the general reduction of expenditures by the bill. At least the Chair may safely infer from this fact that the other provisions of the bill have not increased expenditures in consequence of the large reduction thereof by the second section of the bill.

But it has been argued with much plausibility that the Chair can not foresee what increased appropriations may be necessary in the future in order to support and pay the Army on account of the increased duties imposed upon its officers, soldiers, and employees by this section. And that, in consequence of war or other unforeseen emergency, or of the alleged impossibility of the present military force to perform the increased duties imposed upon them, it may be necessary hereafter to make much larger appropriations for the Indian Service than are now necessary under the present management. Such arguments may with propriety be addressed to the committee or the House, but the Chair can not speculate thus upon the uncertainties of human events. He has only to consider whether this section, by its own force, in connection with the other provisions of the bill, in view of existing law, does retrench expenditures, and whether the bill is so perfect and complete in itself as not to depend upon other or further legislation to give it effect.

That the section under consideration is now legislation, changing existing law, is admitted. But the rule as amended at this session expressly provides that such new legislation may be in order, in a general appropriation bill, provided it be germane to the subject matter of the bill, and shall retrench expenditures. The section under consideration, in the opinion of the Chair, meets both these requirements and is therefore in order as a part of this bill, so far as the rule is concerned.

The importance of the question under consideration, and the effect which the proposed legislation must have upon the Indians themselves, and the great interest which this subject has attracted in this House and throughout the country are the Chair's only apology for the somewhat lengthy opinion which he has submitted.

For the reasons stated the point of order is overruled.

1529. On February 4, 1933,[1] the Legislative appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, and an amendment proposing the reduction of the salaries of Senators and Representatives from $10,000 to $7,500 per annum was pending.

Mr. C. William Ramseyer, of Iowa, offered the following as a substitute for the amendment:

The compensation of Senators for a month's service during the fiscal year ending June 30, 1934, shall be at the rate of $10,000 per annum if the average wholesale commodity price level during the month next preceding was 90 or more; $9,000 per annum if such level was 80 or more, but less than 90; $8,000 per annum if such level was 70 or more, but less than 80; $7,000 per annum if such level was less than 70. For the purposes of the preceding sentence, the average wholesale commodity price level during a month shall be the index number of wholesale all-commodity prices, based upon the year 1926 as 100, as indicated for that month in the monthly compilation of wholesale prices compiled by the Bureau of Labor Statistics of the Department of Labor.

Mr. John N. Sandlin, of Louisiana, made the point of order that the substitute proposed legislation and was not in order on an appropriation bill.

Mr. Ramseyer defended the admissibility of the substitute as involving a reduction in the compensation paid officers of the United States, and said:

Under my amendment, if prosperity is restored, that is, where the commodity index number will reach 90 or more, next August a Senator would receive for his month's pay at the rate of $10,000 per annum. If the commodity index number is 90 or more, it would not change the

[1] Second session Seventy-second Congress, Record, p. 3392.

salary under existing law. My amendment will bring about a saving if the commodity index does not rise to 90. At present the index number is 60.4; and if it remains there, or below 70, the monthly pay for the months that the index number is below 70 would be at the rate of $7,000 per annum.

The Chairman [1] sustained the point of order on the ground that the alleged retrenchment was speculative and not a necessary and inescapable consequence which might be expected to follow the enactment of such legislation.

1530. The reduction of expenditure relied upon to bring a proposition within the exception to the rule prohibiting legislation on an appropriation bill must appear as a certain and necessary result and not as a probable or possible contingency.

On February 16, 1893,[2] The pension appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Points of order raised by Mr. Nelson Dingley, jr., of Maine, were pending on the following amendments proposed to the bill on the preceding day by the Committee on Appropriations:

AMENDMENT NO. 1.

That on the 30th day of June, 1893, the Bureau of Pensions, with all of its remaining officials and employes, and all of its records, files, and property shall be transferred to the War Department, and shall thereafter form a part of the record and pension office of that department; and the Board of Pension Appeals, now in the Interior Department, shall at the same time be transferred to the War Department; and the Secretary of said department shall thereafter exercise all the powers and perform all the duties under the pension laws that are now exercised and performed by the Secretary of the Interior; and the President of the United States shall designate an officer of the Army whose rank and pay during such designation shall be that of a colonel, who shall exercise all the powers and perform all the duties that are now exercised and performed by the Commissioner of Pensions, and he shall likewise designate two officers of the Army, whose rank shall not be below that of captain, who shall perform such duties as may be assigned them by the Secretary of War; and while so employed they shall receive no compensation additional to their Army pay and allowances: *And provided further,* That the offices of Commissioner of Pensions and First and Second Deputy Commissioners of Pensions be abolished on and after said 30th day of June, 1893.

AMENDMENT NO. 2.

That the Secretary of War is authorized, during the fiscal year 1894, to detail from time to time medical examiners in the Record and Pension Office, for the purpose of discharging the duties in all respects heretofore imposed upon and exercised by examining surgeons of pensions; and there may be appointed by the Secretary of War an additional force of one hundred and twenty special medical examiners for the fiscal year 1894, at annual salaries of $1,500 each, and the Secretary of War shall require that all of said special medical examiners shall be surgeons of education, skill, and experience in their profession, and shall impose upon them the powers in all respects now exercised under the law by examining surgeons of pensions; and the examination and certificate of any one of said special medical examiners, or medical examiners so detailed in conjunction with one examining surgeon of pensions, shall have the same force and effect as those of the present boards of examining surgeons. The said medical examiners and special medical examiners shall be assigned by the Secretary of War to such locations within the United States as he may deem most convenient for pension applicants; and they shall receive when absent from home and traveling on duty outside of the District of Columbia, in lieu of expenses for subsistence, $3 per day,

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[1] Alfred L. Bulwinkle, of North Carolina, Chairman.

[2] Second session Fifty-second Congress, Record, p. 1690.

together with an allowance for actual and necessary expenses for transportation and assistance: *Provided,* That no such special medical examiner or medical examiner shall be assigned to any county, city, or congressional district of which he may at any time have been a resident: *And provided further,* That the boards of examining surgeons as now constituted be, and they are hereby, reorganized so as to consist of but one examining surgeon, to be designated by the Secretary of War, acting in conjunction with one medical examiner or one special medical examiner detailed for that purpose as above provided. For salaries of the one hundred and twenty special medical examiners above authorized, $180,000. For per diem, when absent from home and traveling on duty outside the District of Columbia, for special medical examiners or medical examiners detailed for service as herein provided, in lieu of expenses for subsistence, and for actual and necessary expenses for transportation and assistance, $175,000; in all, $355,000.

AMENDMENT NO. 5.

That the rating of all pensions for like disabilities shall be uniform, and that all pensions heretofore granted or hereafter to be granted in pursuance of the act of June 27, 1890, shall be rated upon the inability of the pensioner to earn a living by manual labor.

AMENDMENT NO. 6.

That from and after July 1, 1893, no pension shall be paid to any person drawing a pension under the provisions of chapter 634 of the act of the year 1890, unless he shall show that he is disabled for manual labor, and unless he shall show to the satisfaction of the Pension Office, by proper affidavits, that his annual income is less than $600 a year.

AMENDMENT NO. 7.

That from and after July 1, 1893, no person shall be paid a pension, under any general law as the widow of a soldier of any war, unless said widow was married to the soldier as the widow of whom she draws a pension at some time previous to five years after the close of the war in which her husband served.

The Chairman[1] said:

At the rising of the committee yesterday points of order had been made and debated upon sundry amendments proposed to be offered successively to this bill by the Committee on Appropriations, which reported the bill.

Fortunately for the Chair, the rule allowing amendments to appropriation bills was the subject of a very thorough debate in the first Congress which adopted it—the Forty-fourth—a debate participated in by such men as Mr. Garfield, Mr. Randall, Mr. McCrary of Iowa, Mr. Seelye of Massachusetts, and others, and of a careful construction by the Speaker of that Congress, Mr. Kerr, who was universally recognized as an able and learned parliamentarian. Speaker Kerr held that the rule should have a liberal construction in the interest of retrenchment.

"The purpose of the rule is most beneficent and proper, and the Chair under any circumstances not attended with extreme doubt would hold it to be his duty to enforce the rule."

By which I understand he meant to admit an amendment.

The second clause of Rule XXI provides that no amendment to an appropriation bill changing existing law shall be in order unless it be germane to the subject matter of the bill and retrench expenditures in one of three modes prescribed in that rule. The rule upon which Speaker Kerr made his decision was in the same language, except that the modes of retrenching expenditures had not then been specified.

The first question that the Chair is called upon to decide is whether the first amendment offered by the Committee on Appropriations is germane to the subject matter of this bill, and if germane, whether it retrenches expenditures in any of the modes required by the rule. It was argued with great force by the gentleman from Maine, Mr. Dingley, that it was not germane to the subject matter of the bill, because this is a bill making appropriations for the payment of invalid and other pensions under existing laws, whereas the amendment refers to the administra-

[1] William L. Wilson, of West Virginia, Chairman.

tion of the Pension Bureau itself, and it has been the practice of the House to appropriate for the salaries of the officers of the Pension Bureau in the legislative, executive, and judicial appropriation bill.

There is much force in the argument. But it must be observed, when we come to examine the subject matter of the bill, that it not only makes appropriations for the payment of pensions but deals with a part of the machinery or official staff through which these appropriations are to be administered. Can it be held that to such a bill carrying, as does the present, appropriations of more than $166,000,000, an amendment which merely prescribes or deals with the administrative machinery through which those appropriations are to reach their beneficiaries is not germane? The Chair thinks not, and he accordingly rules that the amendment under consideration is germane to the subject matter of this bill.

The question next arises, Does it retrench expenditures in any of the modes prescribed by the rule? And here the Chair finds himself greatly relieved by decisions heretofore had in a similar case, or in one so nearly like to that now before this committee as to furnish a good precedent.

Speaker Kerr laid down the rule that in considering the question whether an amendment operates to retrench expenditures the Chair can look only to what is properly of record before him—that is, the pending bill, the specific section under consideration, the law of the land so far as it is applicable, and the parliamentary rules and practice of the House; and beyond these he is not permitted to go in deciding the question.

When the general legislative, executive, and judicial appropriation bill was pending in this House in the Forty-fourth Congress an amendment was offered transferring the Indian Bureau to the War Department; and upon the point of order made against that amendment Speaker Kerr's decision was given. He held, in substance, that as the amendment operated to reduce the number and the salaries of officers paid out of the Treasury of the United States, it would have been in order if it had been in itself a perfect and complete piece of legislation, but that on the face of the amendment it was clear that it would have to be perfected by further and additional legislation, and it was not possible for the Chair to determine whether this necessary additional legislation would operate to retrench or to increase expenditures. He based his decision in favor of the point of order strictly upon that ground.

When the Indian appropriation bill came before the House, a few days later, an amendment making this transfer was again offered. It was then in itself a complete piece of legislation. The Chair could see by an examination of it that it would operate, of its own force, to effect this transfer and to abolish certain offices and then bring about a retrenchment of expenditure; and Mr. Springer, of Illinois, then occupying the chair, delivered a careful and elaborate opinion, which had been submitted to and concurred in by Speaker Kerr, holding the amendment to be in order. In accordance with these precedents, the Chair holds that the first amendment proposed to this bill by the Committee on Appropriations is in order, and overrules the point of order made by the gentleman from Maine, Mr. Dingley.

The second amendment proposed by the Committee on Appropriations is to abolish two members, as the Chair understands, of all the local examining boards, and in their stead to authorize the appointment of a certain number of medical examiners, 120 in number, with fixed salaries, who, in connection with the remaining member of each board, are to perform the duties now committed to the local examining boards.

The Chair may believe, as an individual, that the effect of this amendment would very probably be to save a considerable sum of money to the Treasury of the United States. He may see, as an individual, that such would be its effect; but he can not see by the record to which he is now confined that the amendment propria vigore would necessarily bring about such a result. Under the practice, or perhaps under the law as it exists to-day, members of the local examining boards are paid according to the services they perform.

They have no fixed salaries, and the amount that is to be paid is entirely one of estimate and of conjecture based upon past experience. How abolishing two-thirds of the membership of boards which to-day have no fixed salaries, but receive fees depending entirely on the number of examinations they make, and substituting 120 salaried officers who are each to receive $1,500 a

year as salary and $3 per day for subsistence when traveling on duty, together with an allowance for actual and necessary expenses for transportation and subsistence—an indefinite charge upon the Treasury—will necessarily retrench expenditures, the Chair is unable to see, looking only to such things as the Chair can properly look to in ruling on this point. The Chair sustains the point of order to the second amendment.

The next amendment is as follows:

"That the rating of all pensions for like disabilities shall be uniform, and that all pensions heretofore granted or hereafter to be granted in pursuance of the act of June 27, 1890, shall be rated upon the inability of the pensioner to earn a living by manual labor."

The Chair also sustains the point of order made to that amendment, because it is not in the power of the Chair from the proper record to determine whether it will operate a decrease or an increase of expenditures.

As to the amendments numbered 6 and 7, in the printed bill, the Chair finds that it has already been held by occupants of the chair in Committee of the Whole, notably the gentleman from Ohio, Mr. Outhwaite, presiding at the first session of the present Congress, that an amendment to the pension appropriation bill tending to increase the class of persons prohibited from the benefits of the pension laws is in order, because its effect will be to reduce expenditures. Adopting that ruling, which has heretofore been made, the Chair overrules the point of order to the amendments numbered 6 and 7.

On appeal by Mr. Julius C. Burrows, of Michigan, the decision of the Chair was sustained—yeas 103, noes 63.

1531. On February 17, 1893,[1] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

For manufacture of stamped envelopes, newspaper wrappers, and letter sheets, $1,110,000: *Provided,* That it shall be lawful after the 30th day of September, 1894, for the Postmaster General to have the usual requests for the return of letters printed upon any envelope sold by any postmaster or by the Post Office Department.

Mr. Owen Scott, of Illinois, having raised a question of order on the proviso to the paragraph, the Chairman[2] ruled:

The Chair is ready to rule on the question of order presented against the proviso beginning in line 13, on page 5, down to and including line 17, in the following language:

"Provided, That it shall be lawful after the 30th day of September, 1894, for the Postmaster General to have the usual requests for the return of letters printed upon any envelope sold by any postmaster or by the Post Office Department"—

The gentleman from Illinois has raised the point of order, which is that that provision is a change of the existing law and does not retrench expenditures.

By reference to the act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1893, approved by July 13, 1892, the Chair finds the law on this subject to be as follows:

"Provided, It shall not be lawful after the 30th day of September, 1894, for the Postmaster General to have requests for the return of letters printed upon any envelope sold by any postmaster or by the Post Office Department: *Provided further,* That the Post Office Department may continue after the 30th day of September, 1894, to furnish in any quantities stamped envelopes containing the following words: 'If not delivered in ten days return to.'"

That is a general provision of law adopted upon the Post Office appropriation bill of that year.

The Chair thinks that the proviso against which the point of order is made is a change of the existing law, because it authorizes the Postmaster General to do that which the act of 1892 forbids him to do.

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[1] Second session Fifty-second Congress, Record, p. 1765.

[2] Newton C. Blanchard, of Louisiana, Chairman.

The Chair further finds that the proposition against which the point of order is made does not upon its face reduce expenditures. The Chair thinks that that provision does not come under the proviso referred to by the gentleman from California, Mr. Loud, in the following words:

"Provided, That it shall be in order further to amend such bill upon the report of the committee having jurisdiction of the subject matter of such amendment, which amendment, being germane to the subject matter of the bill, shall retrench expenditures."

Now, this proposition, waiving the question for the present as to whether it be germane or not, does not upon its face, the Chair thinks, retrench expenditures, and therefore it does not come within the purview of the proviso to clause 2 of Rule XXI.

The Chair, therefore, is constrained to sustain the point of order on the ground that this proviso to the pending paragraph does change existing law and does not on its face retrench expenditures.

An appeal by Mr. W.W. Dickerson, of Kentucky, from the decision of the Chair, after having debated until adjournment, was withdrawn on the following day.

1532. On February 15, 1912,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. John J. Fitzgerald, of New York, offered an amendment as follows:

Provided, That on and after July 1, 1912, there shall not be maintained in the District of Columbia more than one disbursing office for the Signal Corps or any one of the staff departments of the Army.

Mr. George W. Prince, of Illinois, made a point of order on the amendment. The Chairman[2] held:

The Chair is not informed whether the existing law provides for more than one disbursing office, but suppose for argument's sake that it does. The Chair can not say that the necessary effect of the amendment will be to reduce expenses. One disbursing office might have as many officers in it as two disbursing offices would have. The rent for a building for one disbursing office might be as great as the rent for two buildings for two disbursing offices. This amendment does not appear to the Chair to necessarily retrench expenditures, and the point of order is sustained.

1533. On January 16, 1913,[3] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the following paragraph was reached:

For mileage to officers, dental surgeons, veterinarians, contract surgeons, pay clerks, and expert accountant, Inspector General's Department, when authorized by law, $550,000.

Mr. William E. Cox, of Indiana, proposed this amendment as a substitute for the paragraph:

For mileage to officers, dental surgeons, veterinarians, contract surgeons, pay clerks, and expert accountant, Inspector General's Department, when authorized by law, $392,855: *Provided,* That hereafter all officers of the Army when traveling under orders shall be paid their actual traveling expenses and no more.

Mr. James R. Mann, of Illinois, made the point of order that notwithstanding the reduction in the figures of the appropriation, the amendment did not necessarily propose a retrenchment in expenditures.

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[1] Second session Sixty-second Congress, Record, p. 2116.

[2] Edward W. Saunders, of Virginia, Chairman.

[3] Third session Sixty-second Congress, Record, p. 1645.

The Chairman [1] said:

Before ruling the Chair will make a statement of the essential facts. The principle of the ruling having been heretofore announced it is unnecessary to restate it.

First, with relation to the reduction in the total amount, it may be stated that an amendment to this effect does not need the authority of the Holman rule to make it in order. The gentleman from Indiana can offer an amendment affecting a reduction in any aggregate total without reference to this rule.

Now, in respect to the legislative portion of the amendment, the Chair will say that if the allowance of 7 cents a mile was merely intended to cover the cost of railroad transportation, the Pullman cost, tips, and meals on the train the Chair would not have the slightest hesitation in reaching the conclusion that a provision for actual expenses would necessarily reduce expenses, having reference to facts of the cost of railway travel that are matters of common knowledge.

But another feature is presented. It appears that this allowance of 7 cents a mile is intended to cover other expenses than the cost of travel on the railways, tips, Pullman fares, and the cost of meals. When the party entitled to this allowance reaches his destination his expenses for an indefinite period are paid out of the same fund. Sometimes the allowance might be more than sufficient to pay the costs of travel and the further costs accruing at the point of destination. At other times this allowance might be insufficient. Having reference to the entire body of expenses it is a matter of speculation whether an allowance of 7 cents a mile or the payment of actual expenses would be the cheaper policy for the Government. But looking in the hearings to the testimony of one man who ought to have some practical, I might almost say expert knowledge on the subject (I refer to the testimony of General Aleshire), I find that he states that in his judgment, under the policy of paying actual expenses, as compared with an allowance of 7 cents a mile, the Government would be the loser and the officers the gainers.

Having in mind all the facts, including the statement of this witness, how can the Chair, conclude that this amendment will reasonably and sufficiently operate to reduce expenses? And yet to hold that this amendment is in order the Chair must be reasonably satisfied that the legislative portion of the amendment operating of its own force will effect a reduction of expenditures. This is the whole question as the Chair sees it, and so far as the Chair is apprised this amendment will not necessarily effect a retrenchment.

There seems to be such a succession of rulings necessary to be made under the Holman rule that the Chair would be very glad to have an appeal taken from some one ruling and the question of principle involved affirmatively settled by the committee. The Chair has no pride of opinion. He merely desires to see the controlling principle of interpretation correctly and authoritatively announced. On an appeal the committee could determine whether this amendment will operate with reasonable certainty to reduce expenditures. Unless it will so operate it is not in order. The Chair sustains the point of order to the amendment.

1534. Though the Chairman may be personally convinced that a legislative proposal provides for retrenchment of expenditures, unless such retrenchment appears as a necessary and inevitable result of its operation, he may not hold it in order on an appropriation bill.

On January 30, 1915,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

There shall be a chief of naval operations who shall be an officer on the active list of the Navy not below the grade of rear admiral, appointed for a term of four years by the President, by and with the advice and consent of the Senate, who, under the Secretary of the Navy, shall be responsible for the readiness of the Navy for war and be charged with its general direction. All

[1] Edward W. Saunders, of Virginia, Chairman.

[2] Third session Sixty-third Congress, Record, p. 2748.

orders issued by the chief of naval operations in performing the duties assigned him shall be performed under the authority of the Secretary of the Navy, and his orders shall be considered as emanating from the Secretary and shall have full force and effect as such. To assist the chief of naval operations in preparing general and detailed plans of war there shall be assigned for this exclusive duty not less than 15 officers of and above the rank of lieutenant commander of the Navy or major of the Marine Corps.

Mr. James R. Mann, of Illinois, made a point of order on the paragraph. Mr. Richard Pearson Hobson, of Alabama, contended that through increased efficiency of the service provided by the proposed legislation, expenditure would be largely retrenched.

The Chairman [1] held:

The Chair will state to the gentleman from Alabama that unless he can show that a reduction of this expenditure appears as a necessary result from this provision in the bill, it would not come within the terms of the rule, notwithstanding some statement of opinion by somebody or by the gentleman himself. Even if the Chair himself believed that it would eventually reduce expenditures, yet that would not be sufficient, in the opinion of the Chair.

1535. Provision that the duties of an officer authorized by law be performed by another officer in the service of the Government in addition to his own duties was held to reduce the number and salary of officers of the United States.

While the Chair in passing upon a point of order may not speculate as to the effect of legislation, he is authorized to take judicial cognizance of statutory law.

On March 9, 1916,[2] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A point of order presented by Mr. James W. Good, of Iowa, was pending on an item in the bill appropriating for the salary of the Assistant Solicitor of the Treasury with the additional provision that he should also act as chief clerk.

The Chairman [3] said:

When the committee rose at its last sitting, a point of order was made by the gentleman from Iowa to the following words in the bill:

"Who shall also act as chief clerk."

While as a general proposition, under the rules of the House, it is not in order to legislate on general appropriation bills, yet there are exceptions making it in order to legislate, and under clause 2 of Rule XXI, commonly known as the Holman rule, it is in order by germane amendments which would retrench expenditures of the Government by the reduction of the number and salaries of the officers of the United States.

Now, it will generally be accepted, I apprehend, that a presiding court takes judicial cognizance of any statute law. The Chair thinks that the presiding officer of this House is authorized, in passing on points of order, to take judicial cognizance of any statute law. The Chair is aware that under the current law in the office of the Solicitor of the Treasury there is a chief clerk, receiving a salary of $2,000. The language to which the point of order is made, the Chair thinks, clearly does away with the office of chief clerk, thereby reducing by one the number of salaries paid out of the Treasury of the United States, and places those duties upon the Solicitor of the Treasury. For these reasons the Chair overrules the point of order.

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[1] James Hay, of Virginia, Chairman.

[2] First session Sixty-fourth Congress, Record, p. 3853.

[3] Charles R. Crisp, of Georgia, Chairman.

1536. On January 27, 1931,[1] during consideration of the independent offices appropriation bill, in the Committee of the Whole House on the state of the Union, this provision was read:

Provided further, That the directors of the United States Housing Corporation of New York and the United States Housing Corporation of Pennsylvania may, with the approval of the Secretary of Labor, appoint the chief clerk or other officer of the Department of Labor to act as their president or as their immediate representative in charge of administrative work, such departmental officer to serve without compensation in addition to the salary of his official position, and the directors of these corporations may in like manner designate the disbursing clerk for the Department of Labor to act in a similar capacity for the corporations, and after such designation has been made all funds coming into the hands of said disbursing clerk shall be treated as funds of the United States to be accounted for under his official bond.

Mr. Robert G. Simmons, of Nebraska, made the point of order that the provision was legislation.

Mr. John W. Summers, of Washington, opposed the point of order on the ground that the provision retrenched expenditure and therefore was admissible under the rule.

The chairman[2] sustained the point of order and said:

The rule is as follows, quoting part of clause 2 of rule XXI:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

This proviso, as the Chair is able to read it, is legislation on an appropriation bill which is not authorized by law. There is, however, no way that the Chair can determine that this is a reduction in fact in the expenditure of the sums of money in the appropriation. In order to be justified as legislation on an appropriation bill, it must come within the provision of the rule heretofore quoted. The Chair can not see where a definite retrenchment is made and therefore sustains the point of order.

Thereupon, Mr. Clifton Woodrum, of Virginia, offered the same provision in this form:

Provided further, That upon the approval of this act, the directors of the United States Housing Corporation of New York, and the United States Housing Corporation of Pennsylvania shall appoint the chief clerk or other officer of the Department of Labor to act as their president or as their immediate representative in charge of administrative work, such departmental officer to serve without compensation in addition to the salary of his official position, and the directors of these corporations shall in like manner designate the disbursing clerk for the Department of Labor to act in a similar capacity for the corporations and shall reduce the pay roll by not less than the annual rate of $13,770.

Mr. Simmons again having advanced the same point of order, the Chairman ruled:

The Chair a moment ago read a part of the rule under which we are operating. The second sentence in clause 2 of Rule XXI is as follows:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order except such as being germane to the subject matter of the bill shall retrench expenditures by

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[1] Third session Seventy-first Congress, Record, p. 3330.

[2] Cassius C. Dowell, of Iowa, Chairman.

the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

Under that rule legislation is in order on an appropriation bill provided it comes within one of the exceptions quoted above. This amendment, if in order, must be justified under the provisions of the rule commonly referred to as the Holman rule.

The Chair in this connection desires to quote from a decision made by the gentleman from Georgia, Mr. Crisp, a very able parliamentarian, which may be found in section 8600 of Cannon's Precedents:

"The Chair is aware that under the current law in the office of the solicitor of the Treasury there is a chief clerk receiving a salary of $2,000. The language to which the point of order is made the Chair thinks clearly does away with the office of chief clerk, therefore reducing by one the number of salaries paid out of the Treasury of the United States, and places those duties on the Solicitor of the Treasury."

That seems to me to be the identical question that we have before us now. For the reasons stated, the Chair then overruled the point of order.

The same chairman, Mr. Crisp, in section 1537 of Cannon's Precedents, in ruling on another proposition which involved the Holman rule, said:

"The question, therefore, for the Chair to pass upon is to determine, first, if the amendment is germane; second, if it comes within one of the excepted classes; and, third, if the legislative part of the amendment is connected up with a proposition to reduce the number of salaries of officers paid out of the Treasury of the United States, under which it is claimed the legislation is in order."

The Chair thinks that the amendment offered by the gentleman from Virginia is germane to the proposition under consideration. The Chair also thinks that the amendment comes within the last two of the exceptions noted in the rule. The amendment in express terms reduces the amount paid out of the funds appropriated in the bill. Further, it reduces the salary of at least one person; and the Chair therefore overrules the point of order.

1537. To come within the exception to the rule prohibiting legislation on an appropriation bill, an amendment must show on its face a retrenchment of expenditure, and the Chairman in construing such amendment may not surmise as to its possible or probable effect.

Legislation accompanying an amendment reducing expenditures must be so related as to contribute directly to such reduction.

On March 14, 1916,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. William P. Borland, of Missouri, offered the following amendment:

That the number of persons in the classified service authorized to be employed in the several executive departments and other executive establishments and the government of the District of Columbia shall be reduced by one-tenth on or before the 30th day of June, 1917, and in order that such reduction may be made within loss of service to the Government and to equalize the hours of work required of those in the classified employments of the United States it is made the duty of heads of the several executive departments and other executive establishments and the government of the District of Columbia to hereafter require subject to the provisions and exceptions of section 7 of the legislative, executive, and judicial appropriation act for the fiscal year 1899, approved March 15, 1898, not less than eight hours of labor each day, except Sundays and days declared public holidays by law or Executive order: *Provided,* That the provisions of this section shall not apply to the classified employees of those branches of the public service in which such employees are now required to work eight hours a day.

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[1] First session Sixty-fourth Congress, Record, p. 4075.

Mr. Frank W. Mondell, of Wyoming, made the point of order that the amendment was not in order on an appropriation bill, and in support of his contention cited a decision by Chairman James D. Richardson, of Tennessee, in the Fifty-second [1] Congress.

The Chairman [2] ruled.

While it is true, under the general rules of the House, that legislation is not in order on an appropriation bill, under the rules of the present House there is an exception to that general rule, the exception being that an individual Member of the House can offer amendments providing expenditures of the Government in either of the following three methods: By the reduction of the number and salary of the officers of the United States, or by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of the amount of money covered by the bill. The individual Member, and nonlegislating committees on all fours with individual Members, can propose germane legislation to an appropriation bill if it falls within either of those three excepted classes.

The Holman rule provides an additional method of legislating on an appropriation bill. The proviso to clause 2 of Rule XXI provides that legislation the natural consequence of which is to retrench expenditures is in order if it is proposed by a committee of the House having jurisdiction of the legislative subject of the amendment, or by a joint commission, or the House members of a joint commission authorized to deal with the legislative subject.

The proponent of the amendment in question contends that while it is legislation it is in order, because he contends that it falls within one of the excepted classes permitting an individual Member of the House to offer germane legislation. The proponent of the amendment contends that it reduces the number of officers whose salaries are paid out of the Treasury of the United States.

The question, therefore, for the Chair to pass upon is to determine, first, if the amendment is germane; second, if it comes within one of the excepted classes; and, third, if the legislative part of the amendment is connected up with the proposition to reduce the number of salaries or officers paid out of the Treasury of the United States under which it is claimed the legislation is in order.

The bill before the House is the legislative, executive, and judicial appropriation bill, dealing generally with the salaries of officers and employees of the United States Government. The Chair is cognizant of the fact that there are some exceptions to that, notably the Agricultural Department, but in the main it is the appropriation bill which carries the salaries for the officers and employees of the Government. The amendment seeks to deal with a certain number of the employees of the Government, and the Chair thinks the amendment proposing a new section dealing with a certain class of Government employees is germane to the bill.

Now, the question arises whether the amendment of itself does reduce the number of officers paid out of the Treasury of the United States. The Chair is of the opinion that the amendment must show on its face that it does perform one of the functions required under the rule to make it in order. The Chair is clearly of the opinion that the language of the amendment using the word "shall" makes it mandatory upon the heads of the departments on or before June 30, 1917, to reduce the number of employees in their departments one-tenth, unless they are relieved of that duty by the proviso of the amendment. The amendment clearly reduces the salaries to be paid out of the United States Treasury, one of the exceptions under the rule authorizing legislation on an appropriation bill.

Now, the question arises, on the point of order made by the gentleman from Wyoming, Mr. Mondell, whether or not the amendment is divisible. The gentleman from Wyoming contends that if the first part of the amendment, reducing the number of clerks, is in order the last, or legislative part, is in no way connected with it and it is not in order. It is undoubtedly in order under the rules of the House to reduce the number of employees, or to move to strike out

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[1] Second session Fifty-second Congress, Record, p. 1392.

[2] Charles R. Crisp, of Georgia, Chairman.

the number of employees, without the Holman rule. And the object of the Holman rule, as the Chair understands it, is to permit germane legislation under certain conditions.

Now, the Chair is clearly of the opinion that where an amendment is offered reducing the number of salaries paid out of the Treasury, coupled with legislation, that legislation, to be in order, must be connected up with or related to or logically follow from the part of the amendment reducing the number of employees or the amounts of money covered by the bill, and so forth.

The Chair had the pleasure of being here when the rulings referred to by the gentleman from Wyoming, Mr. Mondell, were made, and the Chair has the greatest respect for the opinions of those who participated in that ruling; but the principal precedent cited is the one where an amendment proposed to reduce by one the number of clerks in the Court of Claims, coupled with a legislative provision repealing an act of Congress known as the Bowman Act. The Chair does not think that to reduce one clerk in the Court of Claims is in any way germane or connected with or that it logically follows or has any connection with the repeal of the Bowman Act.

Now, what does the amendment in question do? It provides that one-tenth of the employees of the various executive departments shall be discharged or reduced. The legislative part of the amendment provides that when this reduction is made the remaining clerks shall work eight hours instead of seven. The Chair can not escape the conclusion that if you reduce the number of clerks the business of the Government will require those remaining in the service to work loner hours. The Chair thinks the legislation naturally and logically follows the provision reducing the number of clerks.

Now, the Chair, as before stated, believes the Holman rule is intended to have a beneficial effect upon the Treasury of the United States. If the Chair is in doubt about whether or not an amendment is in order, he believes it is his duty to resolve that doubt against the point of order, for by so doing the Chair works no hardship upon anyone, but submits to the committee itself the privilege of passing upon the amendment. If the committee favor it, a majority can adopt it. If they are opposed to it, a majority can reject it.

The Chair believes the amendment in question comes clearly within the spirit of the Holman rule, and therefore the Chair, without any reference whatever to the merits of the proposition, overrules the point of order and holds the amendment in order.

1538. Unless an amendment proposes legislation which will retrench expenditure with definite certainty, it is not in order under the Holman rule.

On March 12, 1918,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. William W. Rucker, of Missouri, offered this amendment:

Appointment shall not be made to any of the positions herein appropriated for in the classified service of the Patent Office not actually filed June 30, 1918, nor shall more than 25 per cent of other vacancies actually occurring in any grade in the classified service of that bureau, during the fiscal year 1919, be filled by original appointment or promotion. The salaries or compensation of all places which may not be filled as hereinabove provided for shall not be available for expenditure, but shall lapse and shall be covered into the Treasury. The provisions of this paragraph shall not apply to any position with a salary of $2,250 or above that sum.

Mr. Joseph W. Byrns, of Tennessee, having raised a question of order on the amendment, Mr. Rucker referred to a previous ruling on a similar paragraph in the same bill applying to the Patent Office, in which vacancies existed at the time the bill was under consideration.

The Chairman[2] ruled:

The vacancies, as the Chair understood, were of record, and undisputed. The Chair will call attention to the fact that the amendment proposed presents an entirely different situation

[1] Second session Sixty-fifth Congress, Record, p. 3405.

[2] Edward W. Saunders, of Virginia, Chairman.

from the one heretofore ruled upon: It may be very likely, indeed highly probable, in the light of experience that there will be vacancies during the time to which the amendment relates. But that is a purely speculative proposition. In the case referred to there were actual existing vacancies which could not be filled, provided the paragraph remained in the bill. The retention of that paragraph kept those vacancies from being filled, and that result was, in effect, a reduction of existing employees of the Government, and of official salaries. That reduction brought the paragraph within the benefit of the Holman rule. But the case in hand, is as stated, a speculative proposition. There may be vacancies hereafter arising. It is highly probable that these vacancies will occur, but that is as far as we can go. The Chair can not say, that there is a moral certainty that these vacancies will take place, and unless it is a moral certainty that they will occur, thereby taking that occurrence out of the domain of speculation, the amendment proposed will not operate ex proprio vigore, to reduce expenditures. The Chair sustains the point of order.

1539. On January 18, 1919,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph relating to rent of temporary offices was reached.

Mr. Otis Wingo, of Arkansas, offered this amendment:

Provided, That in the case of space under lease for a term of years no appropriation shall be available for rent until the head of the department in each case shall certify in writing that he has made every proper effort to sublet or procure a cancellation by mutual consent where it is possible to procure space in Government-owned buildings or rent other suitable space at a lower rental than that covered by existing laws.

Mr. William H. Stafford, of Wisconsin, made a point or order on the amendment.

The Chairman[2] ruled:

The Chair thinks that it is entirely speculative as to whether it would be a saving or additional expense. The Chair made his ruling predicated on the Holman rule, assuming that the gentleman offered his amendment under the Holman rule on the ground that it would result in the reduction of expenditure. Construing the Holman rule on January 30, 1915, Mr. Hay, as Chairman of the Committee of the Whole, held:

"To be within the Holman rule, the reduction of expenditures must appear as a necessary result of the legislative provision sought to be incorporated."

In Hinds' Precedents, volume 4, section 3887, page 591, it is held that an amendment—"must not be merely speculative, but must appear on the face of the bill."

The point of order is sustained.

1540. The grant of executive discretion to effect a reduction of expenditure, without mandatory direction, does not bring a proposition within the exception to the rule prohibiting legislation on an appropriation bill.

It is not sufficient that proposed legislation on an appropriation bill will probably reduce expenditure, but such reduction must appear as a necessary and inevitable result in order to admit it under the rule.

On February 14, 1919,[3] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. William B. Bankhead, of Alabama, offered the following amendment as a new paragraph:

The Secretary of War is hereby authorized and directed, immediately upon the approval of this act, to discharge from the military service any soldier or enlisted man who was drafted or

[1] Third session Sixty-fifth Congress. Record, p. 1695.

[2] Joshua W. Alexander, of Missouri, Chairman.

[3] Third session Sixty-fifth Congress, Record, p. 3385.

enlisted for the duration of the war with Germany upon the application of such drafted or enlisted man supported by his own affidavit upon any one or more of the following grounds:

1. Dependents at home wholly dependent upon his labor or assistance.

2. In all cases where the United States is now paying dependents a family allowance.

3. To those soldiers who at the time of entering the military service were engaged exclusively in agriculture for a livelihood.

Mr. Hubert S. Dent, jr., of Alabama, raised a question of order on the amendment. Mr. Bankhead in debating the question, called attention to a former ruling [1] by the sitting Chairman on a point of order against an amendment reducing the number of cavalry regiments in the Army.

The Chairman [2] held:

The chair recollects very well the ruling cited by the gentleman from Alabama. It was a ruling made in connection with the Army appropriation bill about eight years ago, and the Chair thinks the principles announced in that ruling are sound.

Referring to the ruling, it will be noted that it announces that the operation of the amendment must necessarily reduce expenses, not theoretically reduce them, not make it highly probable or likely that they will be reduced, but that sufficiently and necessarily by its own force it will operate a reduction of expenditures. It is not necessary, however, to show that that reduction would be $1,000, or $5,000, or any particular indicated amount. The amendment under consideration gives discretion to certain officials. It does not effect an automatic or certain reduction of the Army. The cases cited by the gentleman, to wit, of the Cavalry regiments and the pension cases, were cases where a definite elimination was affected. No power of discretion was given to any official in the Pension Bureau, but certain names were stricken from the pension rolls. That was true, too, in the case of the Cavalry regiments. They were eliminated, and while one might not be able to figure to the last dollar what the reduction would be, of necessity the elimination of several Cavalry regiments would effect a reduction in the general cost of the Army. In this case discretion is given to certain officials.

The Chair does not understand that the superior officers are to be left without discretion and that the filing of the affidavits will effect an automatic discharge. If the gentleman will so word his amendment as to give it that effect, namely, that when a soldier files his affidavits thereupon, ipso facto, he will be discharged, the Chair would have no difficulty in finding that the amendment in that form would effect a reduction in expenses and therefore would be in order.

As the Chair understands the amendment, it leaves discretion in the official with whom the papers shall be filed. If the Chair properly interprets the amendment, then these applications for discharge will be passed on by officials having authority to approve or deny the leave. It is not possible for the Chair to forecast how that discretion will be exercised, and therefore there is too much of the problematical about the results of the amendments to justify the Chair in saying that of necessity this amendment will necessarily operate to reduce expenses.

The Chair considers that a ruling sustaining the point of order comes within the principles announced in the ruling cited and is in conformity therewith. The point of order is sustained.

1541. In construing a legislative proposition purporting to reduce expenditures, it is not within the province of the chair to speculate upon contingencies which might arise in the future to cause an increase rather than a decrease, and if a reduction is apparent on the face of the proposition it is in order.

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[1] See section 1491 of this work.

[2] Edward W. Saunders, of Virginia, Chairman.

Dicta in contravention of an established ruling,[1] holding that a legislative provision increasing the enlisted force of the Navy is not in order on an appropriation bill.

On June 13, 1919,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

The total authorized enlisted strength of the active list of the Navy is hereby temporarily increased from 131,485 during the period from July 1, 1919, to September 30, 1919, to 241,000 men, and from October 1, 1919, to December 31, 1919, to 191,000 men, and from January 1, 1920, to June 30, 1920, to 170,000 men, and the Secretary of the Navy is hereby authorized to call to or continue on active service on strictly naval duties, with their consent, such numbers of the male members of the Naval Reserve Force (other than commissioned and warrant officers) as may be necessary to supply deficiencies to maintain the total authorized strength for the periods herein authorized. The foregoing total authorized strength shall include the hospital corps, apprentice seamen, those sentenced by court-martial to discharge, enlisted men of the Flying Corps, those under instruction in trade schools, and members of the Naval Reserve Force so serving. That during the fiscal year ending June 30, 1920, no member of the Naval Reserve Force shall be recalled to active duty for training or any other purpose except as hereinbefore provided: *Provided,* That the total number of officers of the line, permanent, temporary, and reserve, shall not exceed at any time, during the periods aforesaid 4 per cent of the total temporary authorized enlisted strength of the Regular and Temporary Navy and members of the Naval Reserve Force (other than commissioned and warrant officers) on active duty, and the number of staff officers shall be in the same proportion as provided under existing law: *Provided further,* That nothing herein shall be construed as affecting the permanent, commissioned, or enlisted strength of the Regular Navy as authorized by existing law.

Mr. George Huddleston, of Alabama, made the point of order that the paragraph increased the permissible strength of the enlisted personnel of the Navy and changed existing law.

The Chairman,[3] having taken the question under advisement, ruled on the following day: [4]

The gentleman from Alabama has made a point of order against the entire paragraph.

The first question relates to the fixing of the strength of the Navy. It is contended that, in consonance with a ruling made in the Fifty-third Congress (4 Hinds' Precedents, 3723), it is in order to fix the strength of the Navy in an appropriation bill. An examination of that single ruling, characterized accurately, as the present occupant of the chair thinks, by Mr. Hinds as "an exceptional ruling," impels the Chair to the belief that a decision should not be founded upon that ruling. In the judgment of the Chair, such a ruling would not be in harmony with the best line of decisions of the House, and therefore on that point alone the Chair would be unable to sustain the paragraph.

It is also contended that the Holman rule applies to this case. A casual reading of the paragraph would indicate to the contrary, because it is stated that "the total authorized enlisted strength in the active list of the Navy is hereby temporarily increased" from a certain number to another number. Upon a closer examination of the paragraph and an examination of the existing law covering the subject matter, it appears that a much larger number than the number here indicated is authorized by existing law and that such larger number is now in the Navy. In other words, the highest number mentioned here is much less than the present number now in the Navy.

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[1] Hinds' Precedents, section 3723.

[2] First session Sixty-sixth Congress, Record, p. 1092.

[3] John Q. Tilson, of Connecticut, Chairman.

[4] First session Sixty-sixth Congress, Record, p. 1107.

Therefore the necessary effect of this provision would be to reduce the number of men in the Navy by 300,000.

The Chair is of opinion that this necessary reduction in the number of me to be paid out of appropriations carried in this bill brings the provision in question under the Holman rule and therefore overrules the point of order to this portion of the paragraph.

The point of order made against the entire paragraph, so that in accordance with the rules of the House, if a single portion of the paragraph is held to be out of order, the entire paragraph must go out.

What appears to be a second distinctive proposition begins on line 20:

"And the Secretary of the Navy is hereby authorized to call to or continue on active service on strictly naval duties, with their consent, such numbers of the male members of the Naval Reserve Force (other than commissioned and warrant officers) as may be necessary to supply deficiencies to maintain the total authorized strength for the periods herein authorized."

The gentleman from Alabama raises a point that has not been touched by any member of the committee, and yet it is the point to which the Chair gave considerable thought. That is the point as to the war being declared at an end within the year, and by reason of that the number of the Navy being reduced more than is authorized in this particular reduction. The Chair, upon examination of that question, can not believe that it is within the province of the Chair to speculate as to contingencies, as to what might happen, but that he must take the law as it exists under facts as they are at present.

Therefore, he would not be able to take into consideration the fact that something else might occur hereafter which would make this not a reduction but an increase. Upon the face of the bill and upon the laws as they now exist, this is a reduction and the Chair is prepared to hold that under the Holmes rule this is in order. The remainder of the paragraph is more or less descriptive, as it describes the classes making up the total and, so far as the Chair is able to see, is not repugnant to the rule of the House, and the point of order, therefore, is overruled.

1542. In construing the Holman rule the Chair may not speculate or surmise as to whether a particular provision might or might not operate to retrench expenditure.

Legislation proposed on an appropriation bill must indicate by its terms an unqualified reduction of expenditures to fall within the exception to the rule.

On January 7, 1920,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

For the survey, resurvey, classification, and allotment of lands in severalty under the provisions of the act of February 8, 1887 (24 Stat. L., p.388), entitled "An act to provide for the allotment of lands in severalty to Indians," and under any other act or acts, providing for the survey or allotment of Indian lands, $10,000: *Provided,* That no part of said sum shall be used for the survey, resurvey, classification, or allotment of any land in severalty on the public domain to any Indian, whether of the Navajo or other tribes, within the State of New Mexico and the State of Arizona, who was not residing upon the public domain prior to June 30, 1914: *Provided further,* That any and all provisions contained in any act heretofore passed for the survey, resurvey, classification, and allotment of lands in severalty under the provisions of the act of February 8, 1887, supra, which provide for the repayment of funds appropriated proportionately out of any Indian moneys held in trust or otherwise by the United States and available by law for such reimbursable purposes, are hereby repealed: *Provided further,* That the repeal hereby authorized shall not affect any funds authorized to be reimbursed by any special act of Congress wherein a particular or special fund is mentioned from which reimbursement shall be made.

[1] Second session Sixty-sixth Congress, Record, p. 1180.

Mr. James R. Mann, of Illinois, submitted that the last two provisions of the paragraph proposed legislation without retrenchment.

The Chairman [1] said:

The gentleman from Illinois makes the point of order against that part of the paragraph on the ground that it is new legislation. The gentleman from New York, Mr. Snyder, defends this language, while admitting it is new legislation, which it clearly is, on the ground that it retrenches expenditures, and hence comes under paragraph 2 of Rule XXI, commonly known as the Holman rule. The present occupant of the chair has never been greatly enamored of the Holman rule. In so far as it may tend to retrench expenditures it may serve a wise purpose, but in so far as it may be used to authorize legislation on an appropriation bill under the guise of a retrenchment of expenditures the Chair is inclined to believe that it is unwise and should be construed strictly. In so construing the rule the Chair thinks that he is not permitted to guess or speculate as to whether or not the particular provisions under consideration may possibly retrench expenditures. It must be apparent that a saving must necessarily result. In this particular case it is contended that inasmuch as most of the funds provided are uncollectible any effort to collect them will cost more than will be realized and hence a repeal of the legal provisions for their collection will save money. The Chair thinks that such a conclusion involves a process of speculation in which he is not permitted to indulge, and under the circumstances feels constrained to sustain the point of order.

1543. In order to comply with the requirement of the Holman rule a proposition must on its face provide for a retrenchment with clearness and certainty and provision for additional revenue to be paid into the Treasury does not necessarily provide for a reduction of expenditures.

Legislation coupled with a provision reducing an appropriation but not directly contributing to the reduction was held not to be in order on an appropriation bill.

On January 26, 1920,[2] the diplomatic and consular appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the paragraph providing for expenses of enforcing provisions of the passport-control act.

Mr. Tom Connally, of Texas, proposed this amendment:

Provided, That a fee of $5 shall be collected for each citizen's passport issued from the Department of State, and a similar fee for each visa by United Sates diplomatic or consular officers on each foreign passport, to be applied by the Secretary of State to create a fund for the carrying into effect of the purposes of this paragraph and the reduction of the sum therein appropriated.

A point of order on the amendment by Mr. Nicholas Longworth, of Ohio, was sustained by the Chairman,[3] as follows:

The law now provides that a fee of $1 shall be charged and collected for each passport issued from the State Department. We have before us the paragraph of the bill providing for the expenses of regulating entry into the United States in accordance with the provisions of an act passed on the 22d of May, 1918, and to carry that act into effect. That act provides that the power shall be given to the Secretary of State to regulate the issuance of passports and, as the Chair understands it, in a measure to limit the number of people who enter the United States. The

[1] Nicholas Longworth, of Ohio, Chairman.

[2] Second session Sixty-sixth Congress, Record, p. 2087.

[3] Martin B. Madden, of Illinois, Chairman.

gentleman from Texas proposes an amendment now to the appropriation which is made to carry out the provisions of that act, which amendment provides that a fee of $5 shall be collected for each passport issued by the Department of State, and he contends that if the amendment is adopted it will reduce the amount of the appropriation on its face.

Clause 2 of Rule XXI of the House provides 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 unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

The law further provides that no such amendment shall be in order unless reported by a committee of the House having jurisdiction over the subject.

It must be apparent to the members of the committee that there is nothing on the face of this amendment to indicate a reduction in the amount of the appropriation. Of course, it is true that if the amendment should be adopted it would raise revenue, but the revenue would go into the Treasury to the credit of the general fund, and there is nobody here wise enough to say what that revenue would be appropriated for. It might not be appropriated for the payment of the expenses of the State Department at all; and on the face of the facts as the Chair sees them, he can not see any possibility of the reduction of the amount of the appropriation on its face resulting from the amendment of the gentleman from Texas nor can it be said that it will even increase the amount covered into the Treasury. The Chair therefore sustains the point of order.

The bill having been reported to the House and read a third time, Mr. Connally, offered the following motion:

Mr. Connally moved to recommit the bill to the Committee on Foreign Affairs with instructions to that committee to report the same back forthwith with the following amendments: Strike out "$250,000" and insert "$200,000"; and add the following:

"Provided, That a fee of $5 shall be collected for each citizen's passport issued from the Department of State, and a similar fee for each visa by the United States Diplomatic and Consular officer on each foreign passport, to be applied by the Secretary of State to create a fund for carrying into effect the purposes of this paragraph and the reduction of the same therein appropriated."

Mr. Longworth interposed a point of order, and the Speaker [1] ruled:

It is argued that this amendment, which is clearly legislation and therefore out of order, is in order by the terms of the Holman rule. That rule provides—

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States."

This amendment certainly does not do that. Again—

"By the reduction of the compensation of any person paid out of the Treasury of the United States."

This certainly does not do that. Then again—

"Or by the reduction of amounts of money covered by the bill."

It must be then under that third clause of the rule that this must be sustained, if sustained at all. It is well settled that the amendment must clearly and certainly and necessarily cause a reduction. But it seems to the Chair that it is impossible for the Chair to be sure that this amendment really and finally reduces the amount of money appropriated in this bill.

To be sure the appropriation is reduced from $250,000 to $200,000 on its face; that brings it within the Holman rule. But while the face of the appropriation is thus reduced on the one

[1] Frederick H. Gillett, of Massachusetts, Speaker.

hand, on the other hand an indefinite increase of the appropriation is made. By the terms of the amendment it is provided that an additional fee—in other words, additional revenue—shall be provided, which shall be put into the same fund from which this appropriation is drawn and which increases that fund by the amount derived from the tax. How much money that tax will produce no one has estimated. Therefore, whether that fund will be larger or smaller than it is now, after this money is collected, it is impossible for the Chair to tell. It may be $200,000; it may be $400,000.

It does not seem to the Chair that it is a fair interpretation of the Holman rule to say that by creating a new source of revenue and making a specific appropriation of that revenue and at the same time reducing the amount which was before appropriated a real reduction of appropriation is affected. Certainly you are not sure that any economy is secured. The expenses of the United States are not necessarily reduced in any way. On the contrary it may very well increase them because if the sum is larger than the original appropriation, then the department has so much more to spend and the outlay of the department would be so much larger. It seems to the Chair that this is not an economy, but on the other hand it might, under the guise of economy, be a very large increase in the expense. It is a novel suggestion that new taxes are economy or lead necessarily to a reduction of expenses. The Chair thinks the amendment does not necessarily reduce the appropriation of this bill and sustains the point of order.

1544. In deciding a question of order raised against a legislative proposition offered on an appropriation bill, the Chairman may not take into consideration opinions by officials or others as to whether it will bring about a retrenchment of expenditures, and unless the proposal shows on its face a positive and definite reduction of expenditures, the point of order will be sustained.

On February 2, 1920,[1] the efficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

For compensation to assistant postmasters at first and second class offices, $350,000.

Mr. Eugene Black, of Texas, offered the following amendment:

Provided, That the tenth provision of section 2 of an act making appropriation for the service of the Post Office Department for the fiscal year ending June 30, 1920, and for other purposes, is hereby amended so that it will hereafter read as follows:

"*Provided further,* That no assistant postmaster or supervisory official at offices of the first class shall receive a less salary than $100 per annum, including the increase herein provided, in excess of the sixth-grade salary provided for clerks and carriers in the City Delivery Service, nor shall an assistant postmaster at any office of the second class be paid a less salary, including the increase herein provided, than that paid the highest-salaried clerk or letter carrier employed in such office."

A question of order being raised against the amendment by Mr. James W. Wood, of Iowa, Mr. Black argued:

I think the Chair will find that it will bring about a reduction in salary, and in this way: The section itself recites the increases that are given to assistant postmasters, which, as I have stated to the Chair, are $200 per annum where the annual salary does not exceed $2,200 per annum and 5 per cent increase where the salary exceeds $2,200 per annum. Now, after providing for that increase, the committee added the tenth proviso, which said that even after the assistant postmaster has received the increase, he shall still receive a salary which shall not be less than that paid to the highest paid clerk or carrier in a second-class office.

[1] Second session Sixty-sixth Congress, Record, p. 2378.

Now, what was the effect of that? The effect of that was to guarantee that no assistant postmaster should receive a less salary than $1,500 at a second-class office. The comptroller has construed that. He has ruled that by reason of not adding the proviso which I have added here, viz, "including the increases provided herein." That the language of the original proviso must be construed to refer to the basic salary.

By adding, as I have added in this amendment, the words "including the increases herein provided," then the Chair is bound, in finding out whether the assistant postmaster's salary shall be equal to the highest paid employee to include the increases that are provided in section 2, whereas under the present text to section 2 he does not have to include those increases.

The Chairman [1] decided:

It is conceded that this is new legislation and that such is the purpose of it, so that if the amendment is in order it must be under section 2 of Rule XXI, known as the Holman rule. In order to bring itself within the provisions of the Holman rule, it having been offered by a Member from the floor, it must be germane to the subject matter of the bill and must retrench expenditures, either by reducing the number of salary of officers of the United States, by a reduction of the compensation of any person paid out of the Treasury of the United States, or by a reduction in the amount of money covered by the bill. It is difficult for the Chair to determine, in fact it would be a matter of conjecture so far as the Chair is concerned, whether the effect of the amendment would be a retrenchment of expenditures or not. At any rate, it does not appear upon the face of the amendment that it retrenches in either of the required ways. After hearing the gentlemen who know more about the Postal Service than the present occupant of the Chair, the Chair is still very much in doubt as to whether it will make any retrenchment whatever.

By permission of the committee the Chair submits two brief excerpts from rulings made by the gentleman from Georgia, Mr. Crisp.

On March 1, 1916, in construing the Holman rule, Chairman Crisp said:

"The Chair does not believe that the opinion of some one that the amendment might reduce and the opinion of another that it might not is legitimate for the Chair to consider, but the Chair must determine from the amendment itself whether or not its natural consequence is to reduce expenditures."

Later on, the same day, when the same matter was offered in a different form, Chairman Crisp said:

"The Chair is of the opinion that the amendment must show on its face that it does perform one of the functions required under the rule to make it in order."

The fact that the gentleman is offering this amendment as a Member of the House and not by order of the Committee on Post Offices and Post Roads limits the application of the Holman rule to a considerable extent. Even upon the able statement of the gentleman from Texas, the Chair does not yet think it clear that the amendment brings itself under the provisions of the Holman rule, and therefore sustains the point of order.

1545. To fall within the exception to the rule forbidding legislation on an appropriation bill, a proposition must show on its face a definite and positive retrenchment of expenditures.

On April 28, 1921,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read:

That no part of the appropriations made in this act shall be available for the salary or pay of any officer, manager, superintendent, foreman, or other person having charge of the work of any employee of the United States Government while making or causing to be made with a stop watch or other time-measuring device a time study of any job of any such employee between the starting and completion thereof, or of the movements of any such employee while engaged upon such work; nor shall any part of the appropriations made in this act be available to pay any pre-

[1] John Q. Tilson, of Connecticut, Chairman.

[2] First session Sixty-seventh Congress, Record, p. 764.

miums or bonus or cash reward to any employee in addition to his regular wages, except for suggestions resulting in improvements or economy in the operation of any Government plant; and that no part of the moneys appropriated in each or any section of this act shall be used or expended for the purchase or acquirement of any article or articles that, at the time of the proposed acquirement, can be manufactured or produced in each or any of the Government navy yards of the United States, when time and facilities permit, for a sum less than it can be purchased or acquired otherwise.

Mr. Harry E. Hull, of Iowa, proposed an amendment as follows:

and that all orders or contracts for the manufacture of material pertaining to approved projects heretofore or hereafter placed with government-owned establishments shall be considered as obligations in the same manner as provided for similar orders placed with commercial manufacturers, and the appropriations shall remain available for the payment of the obligations so created as in the case of contracts or orders with commercial manufacturers.

Mr. Patrick H. Kelley, of Michigan, made the point of order that the amendment involved legislation without retrenching expenditures.

Mr. Hull said:

For only a few minutes. The Chairman understands the Holman rule, and any legislation which will reduce expenses is clearly in order. This is reducing expenses, according to the navy yard's own statement. Take it in connection with the preceding section. If they can manufacture for less than they can purchase, they can use the appropriation. It has been held in order on the Army bill.

The Chairman [1] ruled:

The gentleman from Iowa offers an amendment to the paragraph of the bill which provides—

"That all orders or contracts for the manufacture of material pertaining to approved projects heretofore or hereafter placed with government-owned establishments shall be considered as obligations in the same manner as provided for similar orders placed with commercial manufacturers, and the appropriation shall remain available for the payment of the obligations so created as in the case of contracts or orders with commercial manufacturers."

Well, in the opinion of the Chair, that might result in a saving or it might result in a loss; there is nothing upon the face of the amendment itself to make it clear that it will result and most finally result in a retrenchment of expenditures. Furthermore, of course, it is permanent legislation and authority to the paragraph of the bill where it is offered. The Chair has carefully read the language which precedes it in conjunction with the amendment and can not hold that the amendment on its face will result in a retrenchment of expenditures, and therefore sustains the point of order.

1546. Provision for reduction of expenditures does not admit accompanying legislation not directly contributing to the reduction and essential to its operation.

On March 26, 1924,[2] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the paragraph appropriating $16,400,000 for Army transportation was reached.

Mr. Carroll B. Reece, of Tennessee, offered the following amendment:

Strike out the figures "$16,400,000" and insert "$16,395,000: *Provided,* That the Secretary of War be and is hereby, directed and authorized to transfer to the Department of Agriculture, under the provisions of sections 7 of the act approved February 28, 1919, entitled 'An act making

[1] Joseph Walsh, of Massachusetts, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 5046.

appropriations for the service of the Post Office Department for the fiscal year 1920, and for other purposes,' and acts amendatory thereto, for use in improvement of highways and roads, the following was materials, equipment, and machinery out of the reserve stocks, to wit: One thousand five hundred 5-ton caterpillar tractors, with tools and spare parts; 5,000 motor trucks, 1 to 5 tons capacity; and 500 ordnance mobile machine shop trucks, with tools and spare parts."

Mr. L. J. Dickinson, of Iowa, made the point of order that the amendment involved legislation and did not come within the requirements of the Holman rule.

The Chairman [1] said:

The amendment of the gentleman from Tennessee actually reduces the appropriation covered by the bill, which is the third provision of the Holman rule. It reduces the amount covered by the bill by $5,000, but the legislation proposed in the amendment which follows is not necessary and is not related to the reduction in the appropriation. It is new legislation, of course, and the only question is whether or not it comes under the third provision of the Holman rule by reducing the amount of money covered by the bill, which, as a matter of fact, it does.

The Chair is not convinced that the gentleman's amendment really makes any retrenchment at all, and, of course, if the reduction in the amount covered by the bill is purely an arbitrary reduction, with no relation to the legislation carried, the Chair would not be able to hold it in order.

The amendment seems to do no more than to transfer the property from one department to another. Therefore it does not appear on the face of it that the legislation would have the effect of reducing or retrenching expenditures, although it does reduce the amount carried in the bill. To be in order it must be such an amendment as to retrench expenditure. There is where the gentleman fails to connect up the legislation.

In order to make an amendment in order under the Holman rule the gentleman must comply with the requirements that it be germane to the subject matter of the bill and shall retrench expenditures in one of three ways, one of which is by a reduction of the amount of money carried in the bill. Now, the gentleman complies with the latter portion, but whether the retrenchment is an actual fact or not is a question.

The Chair is unable to so connect the proposed legislation with the reduction of the appropriation as to bring the legislation under the Holman rule, and therefore sustains the point of order.

1547. An amendment proposing coinage of bullion into silver dollars, the cost to be paid from seigniorage, offered to an item in an appropriation bill providing for recoinage of uncurrent fractional silver, was held not to be in order under the Holman rule because not germane and not retrenching expenditure, the seigniorage being the property of the Government.

An amendment reducing the figures of an appropriation, but adding unrelated legislation was held not to retrench expenditures in the sense contemplated by the rule.

On May 18, 1892,[2] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Recoinage of silver coins: For recoinage of the uncurrent fractional silver coins abraded below the limit of tolerance in the Treasury, to be expended under the direction of the Secretary of the Treasury, $100,000.

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] First session Fifty-second Congress, Record, p. 4439.

Mr. Richard P. Bland, of Missouri, offered an amendment striking out "100,000" and adding the following:

And for the coinage of all silver bullion purchased and now in the Treasury into standard silver dollars, the cost of the coinage herein provided for to be paid out of the seigniorage or gain to be covered into the Treasury as available revenue.

Mr. Nelson Dingley, jr., of Maine, made the point of order that the amendment was not germane and provided new legislation.

After taking the question under advisement, the Chairman [1] ruled on the following day:

That the amendment changes existing law is conceded, and it is therefore not in order unless admissible under the last clause just read by the Chair, viz:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order except such as, being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

It is necessary, therefore, only to consider, first, whether this amendment is germane to the pending bill, it being conceded that it is in violation of existing law; and, secondly, whether, if it be germane to the bill, it does reduce the amounts covered by the bill.

Is the amendment germane? If it is not, of course it makes no difference whether it reduces expenditures or not. Under the rule it is not permissible. What is the subject matter of this provision in the bill? The Chair thinks that the subject matter is the appropriation of an amount of money for the purpose of redeeming the fractional currency of the country, and for this purpose authorized by law to recoin uncurrent coin. This amendment, however, provides for the coinage of the silver bullion now in the Treasury, purchased under the provisions of the act of 1890, which prescribes when and how that bullion shall be coined.

The Chair can hardly see where this amendment is germane to the subject matter originally in this bill, the subject matter being what the Chair has already stated. The subject matter of the amendment—for what purpose the bullion is to be coined—does not appear on the face of the amendment. It appears from the amendment itself that it is simply a provision to coin, and the Chair supposes the effect of the adoption of the amendment would be to authorize the coinage of the bullion, which would still remain in the Treasury where it now is. The amendment provides simply that it is to be coined into standard silver dollars.

The law authorizing the redemption of the fractional silver coin does not provide for the object sought to be attained by the amendment, but it does provide that this coin shall be in fractional pieces—subsidiary coin of a specified character. The Chair, therefore, hardly thinks the amendment is germane to the subject matter of the bill.

But does the amendment reduce expenditures by the reduction, in the language of the rule, of the amounts of money covered by the bill? The amount of money covered by the bill in the paragraph under consideration is $100,000 to be used in the recoinage of this abraded coin reduced below the limit of tolerance. The amendment strikes out that provision of $100,000, and is an apparent reduction; but it leaves the object or purpose of the section remaining in the bill without an appropriation, and then proceeds to make provision for an appropriation of money to provide for not only the coinage of the uncurrent fractional silver, but also and mainly, for the coinage of the bullion, mentioned in the amendment, into standard silver dollars. It provides for the cost of this coinage, viz, that it is to be paid out of the seigniorage or gain to the Government in the coining of the silver bullion into dollars.

The remainder of such seigniorage or gain, after providing for the coinage, is to be covered into the Treasury as available revenue. What is the seigniorage on this bullion that is now in the Treasury? The difference between the cost price of the bullion and the value of the standard

[1] Rufus E. Lester, of Georgia, Chairman.

silver dollar, whatever that may be. There are, as the Chair understands it, something like one hundred millions of silver bullion in the Treasury to which this amendment would be applicable, and the coinage of that amount of bullion into silver dollars would cost, the Chair is informed, perhaps a million dollars. That is to be taken out of the seigniorage which belongs to the Government, and requires an act of appropriation to do it. It is provided in the amendment that the seigniorage shall be appropriated for that purpose—that is to say, for the coinage; and the balance of it, supposing of course that there will be a balance remaining, is to be paid into the Treasury as part of the funds of the Treasury.

Now, it requires $100,000, according to the bill, to recoin the abraded coins. Out of the seigniorage this is to be provided for. That is at least $100,000, and the appropriation to pay the expenses of the coinage of this immense amount of bullion is also made. The Chair can not see how striking out of the bill the amount of $100,000, and placing upon it by way of amendment a larger sum, could be called the reduction of the amount covered by the bill. Besides, the Chair thinks that if an amendment which is obnoxious to the provisions of the rule changing existing law is offered, it should appear by the amendment itself, or in some way it should appear that the amendment, although contrary to existing law—changing existing law—reduces expenditures. The Chair finds that it does not so appear on the face of the amendment; and from his general knowledge of the fact, and the subject matter to which the amendment belongs, the Chair thinks it would largely increase the expenditures and necessitate the appropriation of a greater amount for the purpose of doing this work than is originally provided in the bill.

The Chair therefore sustains the point of order against the amendment.

The Chairman having ruled, Mr. Bland immediately offered this amendment:

Provided, That the cost of the coinage shall not exceed $95,000, $5,000 of which shall be used for recoinage of subsidiary silver coins and $90,000 for standard silver dollars.

Mr. Dingley raised the same point of order made against the first amendment. The Chairman ruled:

The Chair ruled this morning that an amendment offered by the gentleman from Missouri adding an amendment to the section here in question, providing for coinage of silver bullion, purchased and now in the Treasury, into silver dollars, was not germane to the paragraph of the bill, and discussed the reasons why the Chair thought so. There is no reason why they should be repeated now, as the House understands precisely what the Chair said.

The Chair has heard no reason given to this House to change his opinion in that respect. That amendment not being germane to the subject, of course a proviso offered to it by way of amendment to that amendment can not cure that defect. Besides that, on the question of an appropriation, the question is whether or not an amendment proposed reduces the appropriation or amount of money covered by the bill. The object evidently of the rule was to retrench expenditures.

"That an amendment shall retrench expenditures by the reduction in the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the amounts of money covered by the bill."

This section refers to a retrenchment of expenditures and a retrenchment by reduction of the amount covered by the bill. Now, it does seem to the Chair that if a bill makes an appropriation, say, of $50,000 for a certain object, and an amendment strikes out $50,000 for this object, but adds, say, $40,000 for another object, it does not retrench expenditures in the sense of the rule, because it would be adding a new object of expense.

Therefore the Chair thinks that this does not come within the rule.

1548. An amendment proposing legislation on the appropriation bill and retrenching expenditure must be germane.

On June 3, 1892,[1] the post office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read

[1] First session Fifty-second Congress, Record, p. 5038.

a paragraph providing for transportation of ocean mails and reappropriating unexpended balances for that purpose.

Mr. George D. Wise, of Virginia, offered an amendment striking out the provision for reappropriation of unexpended balances and inserting the following:

And the act entitled "An act to provide for ocean mail service between the United States and foreign ports and to promote commerce," approved March 3, 1891, is hereby repealed.

Mr. Eugene F. Loud, of California, made the point of order that the amendment proposed to change existing law.

Mr. Wise submitted:

It reduces expenditures by force of the amendment itself. I ask the Chair to look at the amendment. All of the appropriations of unexpended balances contained in those lines are thus proposed to be stricken out, so that the amount carried by the bill is materially reduced by this amendment. A proposition to repeal the subsidy act is connected with a proposition to reduce the amount covered by the bill.

Upon request of the Chairman, a decision on the point of order was deferred until the following day in order to permit an examination of rulings cited on similar points of order. On the following day, the Chairman [1] said:

The Chair with the consent of the committee, will return to the paragraph which was passed over yesterday upon the point of order made against the amendment offered by the gentleman from Virginia, Mr. Wise.

The Chair has taken occasion since this amendment was last before the Committee of the Whole to examine such decisions as he could find of previous occupants of the chair on propositions of this kind, as also to consider the point of order on its own merits.

The ruling made by the gentleman from Virginia, Mr. Buchanan, at an earlier stage of this bill, which was sustained on appeal by the committee is justified by other reasons than such as exist in the present case. The Chair holds that it is not in order under the provisions of Rule XXI to offer an amendment to an appropriation bill consisting of two independent propositions, one of which can be brought within the rule as being germane and tending to reduce expenditures, while the other is a distinct and substantial proposition not allowable under the rule. Otherwise any new legislation might be offered by way of such amendment by merely putting in front of it a proposition to omit or to reduce an appropriation carried in the bill. The Chair is therefore constrained to sustain the point of order.

1549. On December 16, 1911,[2] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read:

For mileage of Representatives and Delegates, and expenses of Resident Commissioners, for the second session of the Sixty-second Congress, $154,000.

To this paragraph Mr. John N. Garner, of Texas, offered an amendment as follows:

The appropriation of $11,340, made in the legislative, executive, and judicial appropriation act for the fiscal year 1912, for pay of nine clerks to committees of the House of Representatives, at $6 per day each during the session, or so much thereof as may be necessary, is made available for the payment of not exceeding eight clerks to committees, at the rate of $125 per month, from the date of their assignment by order of the House until the close of the present session of Congress.

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[1] John A. Buchanan, of Virginia, Chairman.

[2] Second session Sixty-second Congress, Record, p. 442.

Mr. James R. Mann, of Illinois, made the point of order that while the amendment proposed to retrench expenditure it was not germane.

The Chairman [1] ruled:

The part of the rule upon which the gentleman from Texas relies reads as follows:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of the amounts of money covered by the bill."

The Chair assumes that the gentleman relies upon the second classification. In the opinion of the Chair, however, amendments such as proposed by the gentleman from Texas, Mr. Garner, must not only show on their face to be an attempt to reduce expenditures or to retrench, but must also be germane to some provision in the bill. In the opinion of the Chair, this amendment, offered as it is, as a separate paragraph to the urgent deficiency bill, is not germane. Therefore, the Chair sustains the point of order.

1550. In order to comply with the provisions of the Holman rule, an amendment may include only such legislation as is directly instrumental in accomplishing the reduction of expenditures proposed.

On January 6, 1921,[2] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The section providing for expenses of United States district courts having been reached, the Clerk read:

For fees of jurors, $1,150,000.

Mr. Marvin Jones, of Texas, offered this amendment:

Strike out the figures "$1,150,000" and insert in lieu thereof the following: "$575,000: *Provided,* That for the current fiscal year all petit juries for the trial of cases in the district courts of the United States in civil matters shall be composed of 6 instead of 12 persons, as now provided by law, and the jury panels and the number of peremptory challenges which each party is entitled to in any civil case is hereby reduced by one-half the number now provided."

Mr. James W. Good, of Iowa, objected that the amendment proposed legislation on an appropriation bill and was not authorized by law.

The Chairman [3] held:

The Chair has examined the amendment offered, and while it does reduce expenditures and provide for legislation to make effectual the reduction of expenditures, it also embraces other legislation, which is a change of existing law, and it is not germane to the paragraph inasmuch as it affects the number of peremptory challenges to which the Government is entitled. The Chair therefore, sustains the point of order.

1551. On February 21, 1917,[4] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Engineer operations in the field: For expenses incident to military engineer operations in the field, including the purchase of material and a reserve of material for such operations, the

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[1] William Hughes, of New Jersey, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 1058.

[3] Joseph Walsh, of Massachusetts, Chairman.

[4] Second session Sixty-fourth Congress, Record, p. 3825.

construction or rental of storehouses within and outside the District of Columbia, the purchase, operation, maintenance, and repair of horse-drawn and motor-propelled passenger-carrying vehicles, and such expenses as are ordinarily provided for under appropriations for "Engineer depots," "Civilian assistants to engineer officers," and "Maps, War Department," $150,000.

Mr. Nicholas Longworth, of Ohio, offered the following amendment:

Strike out "$150,000" and insert in lieu thereof the following: "$140,000, and that section 124 of an act entitled 'An act for making further and more effectual provision for the national defense, and for other purposes,' approved June 3, 1916, is hereby repealed."

Mr. Hubert S. Dent, jr., of Alabama, made the point of order that the amendment was new legislation and was not germane to the paragraph to which offered.

The Chairman [1] held:

The amendment submitted by the gentleman form Ohio contains two parts, one a proposition to reduce the amount appropriated in the bill from $150,000 to $140,000, the other a proposition for the repeal of a section of existing law. It is insisted that this amendment is in order under the Holman rule. The Chair has had occasion heretofore to construe this rule on various occasions, and in these rulings has been disposed to give the rule a liberal interpretation. But this latitude of interpretation has never been stretched to mean that a motion to reduce an appropriation makes in order an unrelated and ungermane proposition of accompanying legislation. The principles announced in the decisions cited do not support the contention that the amendment of the gentleman from Ohio, is in order. The motion to reduce the amount appropriated, is in order without regard to the accompanying repealing legislation. It is plain that the proposed reduction does not flow from the proposed legislation. It is not in any wise related to it, much less a necessary product of it. It is in order as a separate proposition on its own merits, and the fact that it is coupled with unrelated legislation, does not operate to make that legislation in order.

What would be the effect of the legislative part of the amendment if adopted? The answer is that this repealing amendment, if adopted, would effect a great reduction of general expenditures, but it does not follow therefrom that this legislation is therefore in order, as an amendment. What is the connection between the two propositions embraced in the amendment? As pointed out heretofore, they are unrelated, while the precedents require that there must be some necessary relationship between the legislation proposed and the reduction to be effected in the expenditures comprehended in the bill under consideration. The amount carried in the bill can be reduced by a motion to that effect, which as an independent proposition will be in order. This reduction relates to the expenditures in the bill. But the reduction intended to be effected by the repealing legislation is outside of the bill. The Holman rule requires that amendatory legislation on an appropriation bill must not only effect a retrenchment in the expenditures carried in the bill but must be germane to the bill. To what language in the paragraph under consideration is the proposed legislation germane? In this connection the Chair will call attention to the language of the paragraph—

"For expenses incident to military engineer operations in the field, including the purchase of material, etc., and such expenses as are ordinarily provided for under appropriations for engineer depots, civilian assistants to engineer officers, and 'maps, War Department.'"

How can it be argued that a proposition of legislation which proposes to repeal the nitrate plant section of the act of 1916 is germane to the language cited? It has already been pointed out that an independent proposition of legislation can not by mere association with an unrelated proposition to reduce an item in a bill be thereby rendered in order. If this proposition of legislation effected the reduction proposed and was germane to the bill under consideration, it would fall within the principle of the Holman rule, and be in order. Plainly, however, this legislation, is neither germane to the paragraph nor related to the motion to reduce the appropriation in the bill from $150,000 to $140,000. The point of order is sustained.

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[1] Edward W. Saunders, of Virginia, Chairman.

1552. By exceptional rulings, amendments to appropriation bills repealing existing law have been held in order as retrenchments of expenditure.

On June 21, 1912,[1] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

Enlarging the Capitol Grounds: To continue the acquisition of the land described in the sundry civil appropriation act, approved June 25, 1910, and as authorized and prescribed in said act, for enlarging the Capitol Grounds, $500,000: *Provided,* That in addition to the persons named in the said sundry civil act the Speaker of the House of Representatives shall be a member of the commission constituted to acquire said land, and hereafter any three members thereof shall constitute a quorum and be competent to transact the duties devolving on them.

Mr. Thomas U. Sisson, of Mississippi, reserved a point of order on the paragraph, while Mr. Thetus W. Sims, of Tennessee, made a point of order on the proviso.

The Chairman,[2] having sustained the point of order against the proviso, Mr. Sisson submitted that if a portion of the paragraph was subject to a point of order the whole of it was out of order and the entire paragraph was stricken from the bill.

Thereupon Mr. John J. Fitzgerald, of New York, offered the following amendment:

Enlarging the Capitol Grounds: To continue the acquisition of land described in the sundry civil appropriation act, approved June 25, 1910, and as authorized and prescribed in said act for enlarging the Capitol Grounds, $500,000.

As a substitute for this amendment, Mr. Sisson then proposed an amendment to repeal the law authorizing the appropriation.

Mr. James R. Mann, of Illinois, raised a point of order against the amendment proposed by Mr. Sisson and said:

This is not an amendment to any item in the bill, hence it could not reduce any amount carried by the bill. The provision in the bill has gone out on a point of order and is not part of it.

The original provision in the bill for enlarging the Capitol Grounds was ruled out by the Chair on a point of order, and that ruling is to the effect that it never was a part of the bill. The gentleman understands that when the Chair rules a portion of a bill out on a point of order it is as though it never had been in the bill.

Now, there is no amount carried by the bill for his item for this purpose. Hence no amendment can reduce the amount carried by the bill, because the bill does not carry anything.

An amendment offered from the floor is quite a different thing. There is no provision in the rules against offering an amendment from the floor. The gentleman evidently had in mind that the item in the bill remained in the bill, carrying an appropriation of $500,000, and this would reduce that. But this proposition comes now as thought that item had never been in the bill, because it was in there contrary to the rule. That has been stricken out, not by the committee, not by the House, but by the Chairman, on the point of order. The amendment offered by the gentleman also, even if the original item were in the bill, is not germane.

One word more. Supposing on any appropriation bill which comes before the House there is no item in the bill then relating to a matter, and suppose some gentleman on the floor offers an amendment to make an appropriation. Does anyone contend that the mere offering of that

[1] Second session Sixty-second Congress, Record, p. 8420.

[2] Ben Johnson, of Kentucky, Chairman.

amendment from the floor permits the House, under the rules, to repeal any law relating to the subject matter of that amendment? That would permit any legislation upon an appropriation bill at any time. It would permit the offering and the voting on any legislation at the whim of any two gentleman in the House, because there is no way of preventing a man from offering an amendment for an appropriation, and then anyone can offer an amendment to repeal an act of legislation on the subject that brings the legislation before the House without consideration by a committee on anybody else.

Now, the purpose of these rules is to prevent the bringing up of matters which have received no consideration, to prevent the throwing into the House of propositions on which gentlemen are not prepared to vote or to intelligently understand without proper consideration. But if the Chair makes the precedent that any Member on the floor, by offering an amendment for an appropriation, thereby throws open the door to legislation by cutting out that amendment as a substitute, there is no limit to what can be done and no protection under the rules.

The House is not required to vote in the item because it is offered on the floor. The Committee on Appropriations does not have jurisdiction over the legislation. Under the claim of the gentleman from Mississippi, if it be allowed, there would be no use for any other committees than the Committee on Appropriations; there would be no use to consider any bills except appropriation bills, because any Member by offering an amendment to make an appropriation could throw the whole subject matter involved in the amendment or in the law authorizing the appropriation open to consideration upon the floor. There is another provision of the Holman rule:

"Provided, That is shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law, or the House members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures."

If the reference of this bill to the Committee on Appropriations gave jurisdiction to that committee over the subject matter this matter could be brought before the House upon the report from the Committee on Appropriations recommending the enactment of the legislation.

Take, for instance, the ordinary case. The Committee on Appropriations has jurisdiction over the appropriations for the District of Columbia. The Committee on the District of Columbia has jurisdiction over legislation. Now, will the gentleman from Mississippi contend that because the Appropriations Committee has jurisdiction over appropriations for the District and reports the District appropriation bill I can offer an amendment on the floor of the House to make an appropriation, and thereupon he can move to substitute for that legislation relating to the District of Columbia? For instance, here is a pat case that may come up. We appropriate in the District bill for the execution of the excise laws. Suppose I offer an amendment in reference to the excise laws. Does the gentleman think that upon that amendment, without the report of a committee, without the consideration of a committee, he can offer an amendment fixing the rate of excise, the rate of license under the excise laws, so as to reduce expenditures?

It would be a reduction of the expenses, because you reduce the amount of expenses. There is no limit. If the gentleman's contention should prevail, any Member on the floor, by the offering of an amendment on the District appropriation bill, could throw into the House the consideration of any legislation relating to the District of Columbia without any reference to the Committee on the District of Columbia at all.

Suppose we had under consideration the general deficiency bill, which authorizes an amendment to any service in the Government as a deficiency, and some Member offers an amendment to the deficiency bill. Does the gentleman contend, then that the offering of that amendment would authorize some one else to offer as a substitute a proposition to repeal the law creating the Army?

The rules are designed to prevent forcing the House to vote on a proposition which is under consideration.

Mr. Swagar Sherley, of Kentucky, argued in support of the point of order:

If the gentleman will permit, if that reasoning of the gentleman advocating the amendment is accurate all you have to do under the guise of the Holman rule is to offer an amendment repealing every office that exists under the Government.

The Chairman [1] ruled:

The bill as presented to the House contains this paragraph:

"Enlarging the Capitol Grounds: To continue the acquisition of the land described in the sundry civil appropriation act, approved June 25, 1910, and as authorized and prescribed in said act, for enlarging the Capitol Grounds, $500,000: *Provided,* That in addition to the persons named in the said sundry civil act the Speaker of the House of Representatives shall be a member of the commission constituted to acquire said land and hereafter any three members thereof shall constitute a quorum and be competent to transact the duties devolving on them."

As to that paragraph the gentleman from Tennessee reserved a point of order as to all that which comes after the word "*Provided.*" The gentleman from Mississippi reserved and made a point of order to the entire paragraph. The Chair, in ruling, overruled the point of order to everything in the paragraph before the word "*Provided*" and sustained the point of order for everything that followed the word "*Provided.*" When that ruling was made, that entire paragraph was then out of the bill for every purpose.

The gentleman from New York, Mr. Fitzgerald, then offered the following as an amendment to the bill:

"Enlarging the Capitol Grounds: To continue the acquisition of land described in the sundry civil appropriation act, approved June 25, 1910, and as authorized and prescribed in said act, for enlarging the Capitol Grounds, $500,000."

Thereupon the gentleman from Mississippi offered as a substitute to that amendment repealing the act referred to in the amendment which authorized the appropriation of $500,000.

The question is now raised upon a point of order as to whether the substitute offered by the gentleman from Mississippi is permissible under what is commonly known as the Holman rule, which is section 2 of Rule XXI, and which reads as follows:

"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 unless in continuation or appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures, by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill: *Provided,* That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject of the bill, shall retrench expenditures."

The Chair thinks that nothing which comes in the above rule after the work "*Provided*" need be considered in determining the point of order. The question hinges solely upon that part of the Holman rule which is quoted which comes before the word "*Provided.*" The pertinent part of that section of the Holman rule reads as follow:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

The first question which arises is: Can there be legislation in an appropriation bill under that part of the rule which I have just read? It seems quite evident to the Chair that under the rule there can be legislation, because the rule says—

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except"—

and so forth. That clearly implies that existing law may be changed because of the use of the words therein, "changing existing law."

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[1] Ben Johnson, of Kentucky, Chairman.

If existing law can be changed, under the rule it must be germane, and so the next question arises as to whether or not the substitute offered by the gentleman from Mississippi is germane to the amendment offered by the gentleman from New York.

We are all familiar with the meaning of the word "germane," in its legislative sense at least, but inasmuch as a dictionary lies on the table before the Chair, the Chair has taken occasion to get the definition from that, and the definition that it gives is—

"Any close relationship to."

The amendment offered by the gentleman from New York, treats of the act approved June 25, 1910, which authorizes this appropriation. The substitute offered by the gentleman from Mississippi proposes to repeal the act which is mentioned in the amendment offered by the gentleman from New York.

The Chair is of opinion that there is such a close relationship between the two that the substitute offered by the gentleman from Mississippi in treating of the act of June 25, 1910, is germane to the amendment offered by the gentleman from New York in treating of the same act—that of June 25, 1910.

The Chair is, up to this time, of the opinion that under the Holman rule there is a right to change existing law provided it is germane; and provided, further, it meets any one of the other conditions set out in the rule. The Chair first rules that the substitute offered to the amendment is germane. Before the substitute can be held to be subject to a point of order, or that it is not subject to a point of order, other parts of the Holman rule must be applied to the item as tests. If existing law can be changed in an appropriation bill provided it is germane, it must have one or the other of the additional qualifications. It must, in one instance, in addition to being germane, retrench expenditures by the reduction of the number and salary of the officers of the United States. The substitute offered by the gentleman from Mississippi to the amendment does not meet that requirement of the rule. Next, in order that it may be in order the substitute offered by the gentleman from Mississippi must be a reduction of the compensation of any person paid out of the Treasury of the United States. It does not come under that requirement of the rule. The Chair is of the opinion, however, that it does come under the next requirement, which reads as follows:

"Or by the reduction of the amounts of money covered by the bill."

The Chair first holds that existing law under the Holman rule can be changed, provided it is germane, and the Chair holds that it is germane. Further, that it is good provided it reduces the amount of money covered by the bill. The Chair holds that it does reduce the amount of money covered by the bill to the extent of $500,000.

Now as to the suggestion made by the gentleman from Kentucky, Mr. Sherley, that if the contention of the gentleman from Mississippi were correct all offices could be abolished. The Chair is not called upon to decide that point and will not do so; but, in passing, it may be remarked that there is a provision in the Holman rule for the reduction of the number and salary of officers of the United States. If the Chair were called upon to decide that point he would, as on the present occasion, decide it just as he has the point which is now raised.

The amendment offered by the gentleman from New York treats of the act approved June 25, 1910, which authorizes the expenditure of $500,000 a year for the enlargement of the Capitol Grounds. The gentleman from Mississippi has offered a substitute for the repeal of that act. Now, the gentleman from Mississippi, in offering his substitute, did not refer to the act by its title and date of its approval, but he did more than that, he referred to it by its title, the date of its approval, and then quoted every word of the act, so it occurs to the Chair there is no escape under the conditions from the conclusion that the substitute is germane to the act. The Chair overrules the point of order.

1553. On February 25, 1920,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A paragraph providing for enforcement of the national prohi-

[1] Second session Sixty-sixth Congress, Record, p. 3473.

bition act was read, when Mr. William L. Igoe, of Missouri, offered the following amendment:

Strike out the paragraph and insert in lieu thereof the following:

"The national prohibition act, being Public, No. 66, Sixty-sixth Congress, is repealed on and after July 1, 1920."

Mr. Thomas U. Sisson, of Mississippi, made the point of order on the amendment.

The Chairman [1] ruled:

The paragraph in the bill under consideration is one making an appropriation of $4,500,000 for the enforcement of the national prohibition act. The gentleman from Missouri moves to strike out that paragraph and insert in lieu thereof the following:

"The national prohibition act, being Public, 66, Sixty-sixth Congress, is repealed on and after July 1, 1920."

It is clear to the Chair that this amendment is germane, because the entire paragraph is concerned with the matter of enforcing the national prohibition act. It also seems to the Chair that under the Holman rule and amendment is in order under the paragraph of that rule relating to the retrenchment of expenditures "by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill." The amendment offered by the gentleman from Missouri would seem to come under the last clause of the portion of the rule just referred to, for it surely reduces the amount covered by the bill by the amount of $4,500,000.

Following what the present occupant of the Chair believes to be the principle enunciated two days ago by the gentleman from Ohio, Mr. Longworth, the regular Chairman appointed by the Speaker to preside during the consideration of this bill, he feels constrained to rule that the amendment of the gentleman from Missouri is in order, and therefore overrules the point of order.

1554. On March 4, 1920,[2] the legislative, executive, and judicial appropriation bill was under consideration in the House. The question being on the passage of the bill Mr. John J. Eagan, of New Jersey, moved to recommit the bill to the Committee on Appropriations, with instructions to report it back to the House forthwith with the following amendment:

The national prohibition act, being Public, No. 66, Sixty-sixth Congress, is hereby repealed on and after July 1, 1920.

Mr. Finis J. Garrett, of Tennessee, made the point of order that the motion to recommit provided for a change of existing law.

The Speaker [3] said:

The gentleman from Tennessee very forcefully stated the objections and the disadvantages that might arise from this application of this rule, but that goes chiefly to the wisdom of the rule, it seems to the Chair, and not to the application of it. The Chair has read the decisions made in the Committee of the Whole House on the state of the Union, and while not being bound by decisions in the committee, the Chair would always desire, because it is important that decisions be uniform, to follow the rulings made before.

And the Chair thinks, as decided in the committee, that if the repeal of a law reduces expenditures, that law being germane, an amendment providing for a repeal would be in order. But

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] Second session Sixty-sixth Congress, Record, p. 3869.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

the gentleman from Indiana, Mr. Wood, suggests that the repeal of the Volstead law would not retrench expenditures. As to that, the Chair thinks the burden is on the gentleman from New Jersey to show that it would retrench expenditures.

The Chair thinks the statement of the gentleman answers the objection of the gentleman from Indiana and that the Volstead Act does make provision for officers which are a burden on the United States Treasury, and that therefore a repeal of that act would comply with the wording of the rule. And the Chair also thinks that, while he would be disposed to agree with the gentleman from Tennessee in the objections he made to the rule, yet, inasmuch as the amendment does on its face retrench expenditures, the Chair, following precedents, overrules the point of order.[1]

1555. A proposition admissible under the exception admitting retrenchments of expenditure, but accompanied by additional legislation not falling within the exception by contributing directly to the retrenchment, is not in order on an appropriation bill.

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[1] Subsequently Speaker Gillett, after consideration of the above decision, was convinced that it was erroneous, and in anticipation of a similar amendment which it was thought would be proposed to the sundry civil appropriation bill the following year prepared the following decision in advance. The decision, however, was not rendered because the amendment was not offered.

"This exact question was raised on the legislative appropriation bill last year, and the Speaker, following the ruling of the temporary Chairman of the committee, held that a motion to repeal the Volstead law was in order. It is obvious that such a decision opens the door for constant fundamental changes of law by amendments to appropriation bills. It gives opportunity for constant attack on the most settled and necessary functions of the Government. The fact that a ruling has very inconvenient consequences is no proof that it is wrong, but it justifies a careful scrutiny and reconsideration of the grounds of the decision.

"The ruling of the temporary Chairman, Mr. Tilson, and the Speaker was based on the careful and logical ruling of the Chairman, Mr. Longworth, the day before that the repeal of the law creating the legislative agents was in order on the item appropriating for these agents, and it was somewhat hastily assumed that the repeal of the Volstead law was covered by that decision. But the act creating the Legislative Counsel did nothing but authorize these officials. The Appropriations Committee, by following strictly the language of the Holman rule, could have abolished these officials, and would thereby practically if not literally have repealed the act which created them. But the Volstead Act has many legislative provisions aside from those which create officers and expenditures. Is it in order under the Holman rule to repeal that? The rule as originally enacted provided:

"'Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United states, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.'

"And then at a subsequent Congress was added:

"'*Provided,* That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures.'

"Is it in order under that rule for a Member on the floor to offer an amendment repealing an elaborate legislative scheme like the Volstead law? If at all, it of course must come under the first part of the rule, because nothing can come under the proviso except when offered by the authority of a committee or a commission. The first part of the rule, however, specifically says that the retrenchment must be by either the reduction of the number and salaries of officers, by a reduction of compensation, or by reduction of amounts of money covered by the bill. And the amendment must also be germane. Is an amendment repealing an elaborate legislative act like the Volstead law germane to an item in an appropriation bill which merely appropriates an amount of money for enforcing that law?

On June 2, 1892,[1] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When the section providing an appropriation for star routes was reached Mr. Christopher A. Bergen, of New Jersey, offered this amendment:

That when a new post office is established the Postmaster General shall immediately provide for a mail route to such office and shall make contract for carrying mail to such office, and that after providing by general advertisement for the transportation of the mails in any State or Territory, as authorized by law, the Postmaster General may secure any mail service that may become necessary before the next general advertisement for said State or Territory by posting notices, for a period of not less than ten days, in the post offices at the termini of any route to be let, and upon a bulletin board in the Post Office Department, inviting proposals, in such form and with such guaranty as may be prescribed by the Postmaster General, for the performance of the proposed service. The contract for such service shall be made to run to the end of the contract term under the general advertisement, shall be made with the lowest bidder whose proposal is in due form, and who, under the law, is eligible as a bidder for such postal service. Temporary service rendered necessary by reason of the failure of any bidder or contractor to perform the service awarded him under this provision may be employed by the Postmaster General without advertisement, at a rate which may deem reasonable, at the expense of any such failing bidder or contractor.

Mr. James H. Blount, of Georgia, raised the point of order that the amendment changed existing law and did not retrench expenditures.

The Chairman[2] ruled:

The Chair does not know whether it will increase or decrease expenditures. There is nothing on the face of the amendment to show whether it will or not; but it changes existing law, and in the absence of a direct expression on the face of the bill to show that it would decrease expenditures under the rule, the Chair will have to sustain the point of order.

Immediately Mr. Bergen offered the same amendment with the following provision appended:

And the amount of the appropriation herein for star routes is hereby reduced $500.

Mr. Blount having again raised the question of order, the Chairman held that the proposition to make in order an unrelated proposition by merely appending a

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[1]—Continued from p. 561.

"Moreover was it not intended that an amendment, in order to be in order under the first part of the rule, must not merely result in one of the retrenchments specified in the rule but must specifically provide for the exact kind of retrenchment provided in the rule, so that the repeal of a general statute would not be in order? Unless that is so, what is the purpose of the proviso? The proviso allows a committee to offer a germane amendment which merely retrenches. Was not that obviously inserted so as to allow retrenching legislation which was not so specific as required by the first section of the rule? Legislation, if it clearly retrenched, could come in under the proviso, but must be introduced by the proper legislating committee which had considered the subject and passed upon its wisdom, whereas mere specific reductions of force or salaries could be suggested by the Appropriations Committee or by any Member under the first part of the rule.

"It seems to the Chair that to give force to the proviso—and it is one of the fundamental laws of construction that every part of the law shall be given weight—it is necessary to construe the rule to mean that an amendment under the first part of it must specifically conform to the requirements of the first part and that any general legislation which retrenches expenditure must come under the proviso. Therefore, this amendment, not being offered under the authority of a committee or commission, is out of order."

[1] First session Fifty-second Congress, Record, p. 4961.

[2] Alexander M. Dockery, of Missouri, Chairman.

clause reducing the figures of an appropriation was obnoxious to the rule, and sustained the point of order.

On an appeal by Mr. Marcus A. Smith, of Arizona, the decision of the Chair was sustained by a vote of yeas 73, noes 21.

1556. On February 9, 1893,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

Court of Claims: For salaries of five judges of the Court of Claims, at $4,500 each; chief clerk, $3,000; one assistant clerk, $2,000; bailiff, $1,500; four clerks, at $1,200 each; and one messenger; in all, $34,640.

Mr. Nelson Dingley, jr., of Maine, proposed an amendment as follows:

Amend by striking out all after the words "one thousand five hundred dollars" and insert: "Three clerks at $1,200 each, and one messenger; in all, $33,440: *Provided,* That so much of an act of Congress to afford assistance and relief to Congress and the executive departments in the investigation of claims and demands against the Government, approved March 3, 1883, as authorizes any committee of the Senate or House of Representatives to refer any claims against the Government to the Court of Claims, is hereby repealed."

Mr. Benjamin A. Enloe, of Tennessee, made the point of order that it changed existing law without retrenching expenditure.

The Chairman[2] held:

The Chair is ready to rule on the question. The amendment provides, first, for a reduction of the clerical force in the Court of Claims; and then provides for the repeal "pro tanto" of what is known as the Bowman Act. The rule of the House provides that before a proposition changing existing law shall be in order in an appropriation bill it must be germane to the subject matter of the bill and retrench expenditures, and so forth.

The first question for the Chair to decide is whether this proposition is germane to the pending bill. Now, the first part of this amendment, so far as it reduces the clerical force, or the number of employees, is clearly germane. The latter part of it repeals or modifies the Bowman Act.

Now, the amendment certainly covers two substantive propositions. One is in order, and retrenches expenditures in the manner provided in the rule. The other does not. The amendment, therefore, is obnoxious to the rule, because the latter clause is obnoxious. Of course if a part of an amendment is out of order, the whole of it is.

If the gentleman proposed to accomplish simply the repeal of the Bowman Act by a provision in the appropriation bill, he would be compelled to hold immediately that it was not in order. Now, when he seeks to couple with it a reduction of the employees of the Government, with a view of making the latter part of it within the rule, it seems to the Chair it can not be done.

If this can be done, then the whole internal-revenue law could be repealed in this appropriation bill; because the bill provides for paying some of the employees or clerical force of the Internal Revenue Service. Now, if the gentleman moved to strike out the appropriation for one clerk in that bureau, he could, if this amendment is in order, hang upon that a provision repealing the internal-revenue law and other laws where clerical forces are appropriated for in this bill.

The further proposition is maintained that the amendment retrenches expenditures. How? It is insisted that if this amendment be adopted there will be fewer claims referred to the Court of Claims by the Senate and by the House, acting jointly or acting separately.

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[1] Second session Fifty-second Congress, Record, p. 1392.

[2] James D. Richardson, of Tennessee, Chairman.

In order for the Chair to reach that conclusion he is asked to hold that the committees of the House improvidently refer claims, but that the House or Senate would not improperly do so. If the House and Senate act lawfully, the same number would be referred by the committees that are referred by the two Houses. Therefore, the Chair can not conclude that the committees would not do their duty and that they would refer more cases than the two Houses would refer and thereby create a larger demand for clerical force for the Court of Claims, and if not there would be no retrenchment in fact.

The Chair sustains the point of order.

1557. On February 18, 1918,[1] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph was reached providing an appropriation of $4,000,000 as a revolving fund for the purchase and sale of seeds to farmers at cost.

Mr. Frank W. Mondell, of Wyoming, offered this amendment as a substitute for the paragraph:

To enable the Secretary of Agriculture to meet the emergency caused by the need for food and seed crops by purchasing or contracting with persons who grow seeds suitable for the production of food crops and to store, transport, and furnish such seed to farmers for cash at approximately the cost of the same or on credit with approved security of financial or business organizations guaranteeing the same, $6,000,000, and this fund may be used as a revolving fund until the Secretary of Agriculture determines that no such emergency exists, and the Secretary of Agriculture is authorized to pay all such expenses, including rent, and to employ such persons and means in the District of Columbia and elsewhere and to cooperate with such State authorities or local organizations or individuals as he may deem necessary.

The amendment being ruled out on the point of order made by Mr. Swagar Sherley, of Kentucky, that it comprised legislation, Mr. Mondell offered it in this form:

For additional for procuring, storing and furnishing seeds as authorized by section 3 of the act entitled "An act to provide further for the national security and defense by stimulating agriculture and facilitating the distribution of agricultural products," approved August 10, 1917, including not to exceed $5,000 for rent and personal service in the District of Columbia, $3,999,000, which may be used as a revolving fund until June 30, 1918, and the seeds secured and purchased out of this appropriation may be sold to farmers for cash at their approximate cost, or on credit with approved security of responsible organizations guaranteeing the repayment of same.

Mr. Sherley again raised a question of order and said:

Mr. Chairman, the reason that the matter is subject to the point of order is because the legislative part of it does not in any sense result in a reduction of the expenditure. If the gentleman's broad contention was true all you would have to do touching any amendment to make it in order would be to reduce by 1 cent any money item in a bill, then add whatever language you pleased, and, according to the gentleman's contention, you would thereby be reducing the expenditure. But the rule was not made for that sort of a case. The rule is that for an amendment to be in order under the Holman rule it must be of such a character as to result in a reduction of salaries or expenses or the general amount carried in the bill. Selling on credit instead of for cash will not save money to the Government of the United States, and I submit the matter is manifestly subject to the point of order.

The Chairman[2] held:

The situation developed by this amendment is as follows: The amendment first proposes to reduce the amount carried in this paragraph. That is perfectly competent under parliamentary

[1] Second session Sixty-fifth Congress, Record, p. 2280.

[2] Edward W. Saunders, of Virginia, Chairman.

law. In addition it is proposed for legislation to accompany the reducing portion of the amendment. But this legislation has no sort of relation to the proposed reduction. It is perfectly competent to legislate on an appropriation bill, provided the legislation proposed necessarily effects a reduction; but it is just as plainly incompetent to propose a reducing amendment to an appropriation bill, a motion which can be made at any time without reference to the Holman rule, and then undertake to attach to this motion legislation which does not effect the reduction and is not in any wise related to it.

Now, that is the situation presented by the amendment of the gentleman from Wyoming, and his amendment is plainly out of order. The point of order is sustained.

1558. While unrelated legislation coupled with a retrenchment is not in order on an appropriation bill, a single clause or sentence which, if isolated, could not be construed as reducing expenditure but which forms a constructive and integral part of the paragraph, is not subject to a point of order.

On February 15, 1912,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

That the office establishments of the Quartermaster General, the Commissary General, and the Paymaster General of the Army are hereby consolidated and shall hereafter constitute a single bureau of the War Department, which shall be known as the bureau of supplies, and of which the chief of the supply corps created by this act shall be the head. The Quartermaster's, Subsistence, and Pay Departments of the Army are hereby consolidated into and shall hereafter be known as the supply corps of the Army. The officers of said departments shall hereafter be known as officers of said corps and by the titles of the rank held by them therein, and, except as hereinafter specifically provided to the contrary, the provisions of sections 26 and 27 of the act of Congress approved February 2, 1901, entitled "An act to increase the efficiency of the permanent military establishment of the United States," are hereby extended so as to apply to the supply corps in the manner and to the extent to which they now apply to the Quartermaster's, Subsistence, and Pay Departments, and the provision of said sections of said act relative to chiefs of staff corps and departments shall, so far as they are applicable, apply to all offices and officers of the supply corps with rank above that of colonel. The officers now holding commissions as officers of the said departments shall hereafter have the same tenure of commission in the supply corps, and as officers of said corps shall have rank of the same grades and dates as that now held by them, and, for the purpose of filling vacancies among them, shall constitute one list, on which they shall be arranged according to rank. So long as any officers shall remain on said list any vacancy occurring therein shall be filled, if possible, from among such officers, by selection if the vacancy occurs in a grade above that of colonel, and, if the vacancy occurs in a grade not above that of colonel, by the promotion of an officer who would have been entitled to promotion to that particular vacancy if the consolidation of departments hereby prescribed had never occurred. The noncommissioned officers now known as post quartermaster sergeants and post commissary sergeants shall hereafter be known as supply sergeants; the Army paymaster's clerks shall be known as pay clerks, and each of said noncommissioned officers and pay clerks shall continue to have the pay, allowances, rights, and privileges now allowed him by law: *Provided,* That no details to fill vacancies in the grade of major in the supply corps shall be made until the number of officers of that grade shall have been reduced by 11, and thereafter the number of officers in said grade shall not exceed 46; and no details to fill vacancies in the grade of captain in the supply corps shall be made until after the number of officers of that grade shall be reduced by 31, and thereafter the number of officers of said grade shall not exceed 100; and whenever the separation of a line officer of any grade and arm from the supply corps shall create therein a vacancy that, under the terms of this proviso, can not be filled by detail, such separation shall operate to make a permanent reduction of one in

[1] Second session Sixty-second Congress, Record, p. 2114.

the total number of officers of said grade and arm in the line of the Army as soon as such reduction can be made without depriving any officer of his commission: *Provided further,* That whenever the Secretary of War shall decide that it is necessary and practicable, regimental, battalion, and squadron quartermasters and commissaries shall be required to perform any duties that junior officers of the supply corps may properly be required to perform, and regimental and battalion quartermasters and commissary sergeants shall be required to perform any duties that noncommissioned officers or pay clerks of the supply corps may properly be required to perform: *Provided further,* That such duty or duties as are now required by law to be performed by any officer or officers of the Quartermaster's, Subsistence, or Pay Departments shall hereafter be performed by such officer or officers of the supply corps as the Secretary of War may designate for the purpose: *Provided further,* That there shall be a chief of the supply corps, who shall have the rank of major general while so serving, and who shall be appointed by the President, by and with the advice and consent of the Senate, from among the officers of said corps and in accordance with the requirements of section 26 of the act of Congress approved February 2, 1901, hereinbefore cited: *Provided further,* That when the first vacancy in the grade of brigadier general in the supply corps, except a vacancy caused by the expiration of a limited term of appointment, shall hereafter occur that vacancy shall not be filled, but the office in which the vacancy occurs shall immediately cease and determine: *Provided further,* That the supply corps shall be subject to the supervision of the Chief of Staff to the extent the departments hereby consolidated into said corps have heretofore been subject to such supervision under the terms of the existing law.

Mr. George W. Prince, of Illinois, said in raising a question of order:

Mr. Chairman, I make the point of order against the entire paragraph. The point of order is largely based upon what appears on page 52:

"Provided further, That there shall be a chief of the supply corps, who shall have the rank of major general while so serving, and who shall be appointed by the President, by and with the advice and consent of the Senate, from among the officers of said corps and in accordance with the requirements of section 20 of the act of Congress approved February 2, 1901, hereinbefore cited."

On page 50 the Chair will note the following:

"The officers now holding commissions as officers of the said departments shall hereafter have the same tenure of commission in the supply corps, and as officers of said corps shall have rank of the same grades and dates as that now held by them, and, for the purpose of filling vacancies among them, shall constitute one list, on which they shall be arranged according to rank."

One list is created by this section, and from that one list there shall be selected a chief of supply corps, who shall have the rank of major general. This is subject to a point of order, because it does not reduce the number of officers, it does not reduce the pay of an officer, but, on the contrary, creates a new officer with additional pay; and it seems to me, in view of the ruling of the Chair this morning—that where one part of a paragraph or section is subject to a point of order the entire paragraph or section goes out—that the same ruling must prevail as to this, and I shall expect the Chair to hold likewise, in view of the proviso on page 52.

The Chairman [1] ruled:

In the present case a section is presented by the committee as a concrete whole. It is constructive legislation, in which each part bears an appropriate relation to the whole. It is an entity of independent, but related parts. It is submitted as a complete legislative proposition. This being so, it should be considered as a whole and not in segregated items. The section is presented as a whole, and when considered as a whole it conforms to the requirements of the Holman rule. A paragraph here and a sentence there taken as isolated propositions may not be retrenched expenditures, but the Chair does not think that a really single proposition should be picked to pieces in this manner and destroyed in this fashion by parliamentary rulings, when as a whole the section effects a large retrenchment. In this instance the point of order is not good against the whole

[1] Edward W. Saunders, of Virginia, Chairman.

section, for, viewed as a whole, it effects a considerable retrenchment, and is not subject to a point of order. The Chair will not entertain piecemeal motions unless the paragraphs to which these motions or points of order are directed are not parts of the complete proposition. The motions or points of order are directed are not parts of the complete proposition. The committee having jurisdiction has reported a concrete section, carrying independent legislation. It should be considered as such. Looking to the section as a whole, and to the correlated parts, it carries a reduction. It has not been denied in argument that this section as a whole will effect a considerable retrenchment. The point of order is overruled.

1559. On January 13, 1913,[1] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

For inland transportation by railroad routes, $49,000,000: *Provided,* That no part of this appropriation shall be paid for carrying the mail over the bridge across the Mississippi River at St. Louis, Mo., other than upon a mileage basis.

To this paragraph Mr. Fred S. Jackson, of Kansas, offered the following amendment:

Amend by striking out "$49,000,000" and insert in lieu thereof "$48,500,000"; and by adding thereto:

"'Provided, That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical advertising for sale, either directly or indirectly, any spirituous, malt, vinous, or other intoxicating liquors for transmission to or delivery in any State, county, municipality wherein the sale of such liquors is or may be hereafter prohibited by State law, or when like pieces of mail matter are intended to promote the sale of stocks, shares, bonds, or other forms of indebtedness, of any corporation, company, or association, unless the same have first been inspected and approved by the Postmaster General as free from intended fraud upon purchasers and proper to be introduced into the mails of the United States."

Mr. John A. Moon, of Tennessee, made a point of order against the proviso of the amendment.

The Chairman[2] ruled:

The present occupant of the chair has been in the chair on different occasions when different phases of this Holman rule have been construed, and the Chair thinks that the reading of such decisions as he has already made upon those matters will indicate the tendency of the present occupant of the chair to always construe that rule strictly and not to give it wider latitude than the clear import of the language used in it justifies. The Chair is disposed to apply that same principle in the decision that he is now called upon to make.

The amendment proposed by the gentleman from Kansas is as follows:

"Amend by striking out '$49,000,000' and insert in lieu thereof '$48,500,000,' and by adding thereto:

"Provided, That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical advertising for sale, either directly or indirectly, any spirituous, malt, vinous, or other intoxicating liquors, for transmission to or delivery in any State, county, municipality, wherein the sale of such liquors is or may be hereafter prohibited by State law, or when like pieces of mail matter are intended to promote the sale of stocks, shares, bonds, or other forms of indebtedness of any corporation, company, or association, unless the same have first been inspected and approved by the Postmaster General as free from intended fraud upon purchasers and proper to be introduced into the mails of the United States; and the Postmaster General is hereby authorized and directed

[1] Third session Sixty-second Congress, Record, p. 1471.

[2] Finis J. Garrett, of Tennessee, Chairman.

to use $100,000 of this appropriation for the purpose of weighing the mails and readjusting and reducing the compensation now paid the railway companies for transporting the mails by excluding said classes of mail matter from the mails of the United States.'"

It is conceded that the first part of the amendment is in order under the Holman rule, as it carries a reduction of $500,000 in the appropriation. It is the opinion of the Chair that where a proposition of legislation follows a proposition to reduce the amount and is so related to that proposition to reduce the amount as to be clearly and logically germane thereto, it is brought within the operation of the rule.

The decision referred to has been read, but the order was not altogether good at the time, and the Chair will ask the indulgence of the House while he reads it again:

"On May 5, 1880, the Post Office appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when Mr. George D. Robinson, of Massachusetts, offered this amendment to the paragraph providing $9,500,000 for transportation of mails on railroad routes:

"Strike out all in the sixtieth and sixty-first and sixty-second lines between the word namely,' in the sixtieth line, and the word '*Provided*,' in the sixty-second line, and substitute the following:

" 'For transportation on railroad routes, $9,490,000, of which sum $150,000 may be used by the Postmaster General to maintain and secure from railroads necessary and special facilities for the Postal Service for the fiscal year ending June 30, 1881.' "

"Mr. James H. Blount, of Georgia, made a point of order against the amendment, under Rule XXI, as it then existed, in a modified form adopted at that session of Congress:

' "Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and the salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.' "

The Chair will state that the form was the same as it is now, except that it did not then contain the proviso, or at least the proviso was not invoked in that discussion.

After debate, the Chairman, Mr. John G. Carlisle, of Kentucky, overruled the point of order in the following language:

"Although the meaning of the words 'necessary and special facilities for postal service' is not very clear, yet the Chair held yesterday, after giving the subject some consideration, that the effect of such an amendment would be to change existing law. The Chair still adheres to that opinion. But under the third clause of Rule XXI an individual Member upon the floor may offer an amendment changing existing law provided it retrenches expenditures in one of three modes: First, by reducing the number and salaries of the officers of the United States; or, second, by reducing the compensation of persons paid out of the Treasury of the United States; or, third, by reducing the amounts covered by the bill. The amendment offered by the gentleman from Massachusetts does not propose to add an appropriation of $150,000 to the bill; but it provides that of the amount appropriated by the bill the sum of $150,000 may be used for certain purposes, and it diminishes the amount covered by the bill by striking out '$9,500,000' and inserting '$9,490,000.' So that the Chair is bound to hold that the amendment conforms strictly to the language of the rule. Whether the language actually used in this rule accomplishes the exact purpose which the House had in view in adopting it is not a question for the Chair to decide; but taking the language of the rule as it stands and putting upon it the construction which ordinarily would be put upon such language in a statute or in a rule of the House, the Chair is compelled to hold that the amendment comes within the rule, and is in order."

We have here one more proposition than was contained in the proposition on which Mr. Carlisle then had occasion to rule. That contained a proposition to reduce the amount, a proposition to authorize $150,000 for a certain purpose. The proposition presented by the gentleman from Kansas seeks to reduce the amount, and then it proposes to have certain governmental activities or to lay certain limitations that upon the face of it would appear to the Chair to make it possible to make some reduction of amount at least, and then another proposition similar to that which was contained in the amendment ruled upon by Mr. Carlisle.

It seems to the Chair that the proviso against which the gentleman from Tennessee makes the point or order is so related to that portion of the amendment proposed by the gentleman from Kansas, which is admitted to be in order, that it is germane, and the Chair therefore overrules the point or order.

1560. An amendment proposing legislation which will not patently reduce expendition, is not in order under the Holman rule.

A proposition to reduce a total in an appropriation bill is in order without reference to the Holman rule and nonretrenching legislation is not admissible merely because associated therewith.

On January 16, 1913,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

For pay of officers on the retired list and for officers who may be placed thereon during the current year, $2,877,000.

Mr. John Q. Tilson, of Connecticut, offered the following amendment:

Strike out "$2,877,000" and insert in lieu thereof the following: "$2,874,500: *Provided,* That hereafter when any officer who has been retired for disability is found by an examining board, to be appointed by the Secretary of War, to be physically and mentally qualified for active service, the President may, in his discretion, reinstate such officer upon the active list as an extra officer, with the rank and relative position he would have held if he had not been retired: *Provided further,* That such officer shall continue as an extra officer only until such time as a vacancy shall occur in his grade and arm of the service, and if again retired for disability he shall be retired with the rank and pay received by him before his reinstatement."

Mr. James Hay, of Virginia, having made a point of order on the amendment, the Chairman[2] proceeded to rule as follows:

Having in mind the possible number of restorations that will reasonably follow upon the enactment of this amendment, and the suggestion that an officer who was retired in one rank might be restored in an advanced rank carrying larger pay, it is perfectly clear, to the Chair at least, that it can not be reasonably ascertained that the operation of this amendment will reduce expenditures. The view taken by the Chair is that the crucial test of a proposition submitted under the Holman rule is whether it will effect a retrenchment. In this connection, I am referring to the legislative features of the amendment. The Chair before holding such a legislative proposition to be in order must be satisfied, to a reasonable certainty, that in its working effect it will reduce expenditures. It am not satisfied that a reduction of expenditures will attach to the operation of this amendment. Hence it is not within the rule, and the point of order must be sustained.

The Chair has ruled heretofore that a reduction can not be made a peg on which to hang any sort of legislation. It the legislation brings about the reduction, that is another situation; but the mere fact that a reduction is offered in an aggregate total does not justify legislation which can not be reasonably regarded as the efficient cause of the reduction. The legislation must be the efficient inducing cause of the reduction. In the meantime the extra compensation might amount to a great deal more than the reduction of $2,500. That is what the Chair is seeking to point out. You can not possibly figure out that the reduction of $2,500 is a necessary consequence of this amendment. The arguments pro and con are too nearly balanced, the facts are too uncertain, to furnish the ground for a satisfactory conclusion of retrenchment.

Mr. James R. Mann, of Illinois, here interposed:

Will the Chair permit me a moment on the point of order?

Under the Holman rule there are four phases of adding legislation to an appropriation bill. The last one, which of course is not applicable to this amendment, is that it shall be in order.

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[1] Third session Sixty-second Congress, Record, p. 1635.

[2] Edward W. Saunders, of Virginia, Chairman.

further to amend such bill upon the report of a committee, and so forth, which amendment, being germane to the subject matter of the bill, shall retrench expenditures.

Under that provision of the Holman rule, as I understand the decisions, it is necessary for the Chair to be able to see on the face of the amendment, or with such information as he is furnished, that the amendment will reduce expenditures.

There is the other provision in the Holman rule—

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

It is admitted that the amendment is germane to the bill. I assume that it is because it is perfectly patent on its face. The amendment is germane to the bill. Now, the amendment does reduce the amount of money covered by the bill carrying legislation with that which it is claimed will further reduce the expenditures of the Government. But I do not understand from the decisions heretofore made that it is the duty of the Chair to determine whether the additional legislation will reduce expenditures of not when it is coupled with the proposition which does in fact reduce the amount of carried by the bill.

It is for the House, then, to determine whether, in their opinion, there will be a reduction of expenditures which would entitle House to favor the amendment. It is impossible in any event, except where you cut off officers or cut off salaries, or dispense with the service through officers or salary, to say that anything will reduce expenditures. These two points are carried by the first two provisions of this rule—"shall retrench expenditures by the reduction of the number and salary of the officers or by reduction of the compensation of any person." There is practically no other way of reducing except by decreasing the purchase of supplies.

Here is an amendment which does, in fact, reduce the amount of money carried by the bill, but is claimed that the reason for making that reduction is that the legislation proposed will accomplish the reduction. I do not see how there is any escape from the proposition that the amendment making a reduction in the amount carried by the bill and carrying legislation with it for the purpose of making the retrenchment is in order.

My contention is that it reduces the amount carried in the bill, with a germane amendment which it is contended accounts for that reduction.

The Chairman concluded:

First, in relation to the suggestion of the gentleman from Illinois, that the amount covered in this bill is reduced, it may be said that the suggestion is well taken. The aggregate total is reduced by the amount of $2,500. Having this reduction in mind it is argued that germane legislation sufficient to account for that reduction is in order. The Chair admits that this argument is sound, and holds the germane legislation effecting the reduction is in order. But unrelated legislation can not be attached to the reduction, for an amendment reducing a total does not require the authority of the Holman rule and hence can not be made the basis of legislation which is not the necessary and efficient cause of the reduction. Using the reduction in the total as a peg, you can not hang all sorts of unrelated legislation on that reduction. The reduction must be accounted for by the legislation, and the point that the Chair undertakes to present in this connection is that, after listening to the contention of the participants in this debate, and looking to the amendment, he is unable to perceive that in its necessary operation it will effect the reduction of $2,500, of any portion thereof. If it does not effect this reduction, then it is not in order. If it does account for it, the Chair will hold that the amendment is in order. From the arguments submitted the Chair understands that the possible effect of this amendment will be to restore an indefinite number of officers to their old pay, or possibly to greater pay, since their grade may be advanced. They may or may not render the promotions of other officers unnecessary or reduce the number required. For a time at least they might receive this increased pay without rendering service. It is difficult to see that in its operation as a whole this amendment will reduce expenditures. In fact its economic operation is altogether problematic. The Chair sustains the point of order.

Chapter CCXXV.[1]

RIGHT OF COMMITTEES TO PROPOSE LEGISLATION ON APPROPRIATION BILLS.

1561. Supplementing the exception to the prohibition imposed by clause 2 of Rule XXI, it is in order to further amend a general appropriation bill by germane amendment retrenching expenditure reported by the committee having jurisdiction of the subject matter of the amendment.

Section 2 of Rule XXI provides:

Provided, That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures.

1562. In order to come within the proviso of clause 2 of Rule XXI, a proposition must come officially from the committee having jurisdiction and not as an integral part of an appropriation bill reported by the Committee on Appropriations.

On March 21, 1892,[2] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read a paragraph including the following proviso:

Provided further, That hereafter no money appropriated for Army transportation shall be used in payment of the transportation of troops and supplies of the Army over any of the nonbonded lines owned, controlled, or operated by the Union Pacific Railway Company (including the lines of the Oregon Short Line and Utah Northern Railway Company) or by the Southern Pacific Company over lines embraced in its Pacific system.

Mr. William H. Crain, of Texas, made the point of order that the proviso violated clause 2 of Rule XXI.

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[1] Supplementary to section 3890 of Chapter XCVII.

[2] First session Fifty-second Congress, Record, p. 2282.

The Chairman [1] ruled:

The gentleman from Indiana, Mr. Holman, contends that this proposed new legislation is in order in an appropriation bill under the proviso of the second section of Rule XXI, which says:

"It shall be in order further to amend such bill upon the report of the committee having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures."

The Chair is of opinion that a motion of that kind should come officially from the committee having jurisdiction, and can not be brought before the Committee of the Whole House on the state of the Union as an integral part of an appropriation bill reported by the regular Committee on Appropriations.

1563. The proviso of clause 2, Rule XXI, applies only to amendments duly submitted by committees authorized to report them and not to provisions originally incorporated in the bill or amendments proposed by members in individual capacity.

On January 16, 1912,[2] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph was reached providing for street repairs in the District of Columbia concluding with this proviso:

Provided, That the Commissioners of the District of Columbia are hereby authorized, in their discretion, to use such portion of public space lying south of Water Street and east of Fourteenth Street SW, as may, in their judgment, be necessary for the site of an asphalt plant and the storage yards and other necessary accessories therefor. And they are further authorized to establish, construct or purchase, maintain, and operate, on the site above described, an asphalt plant with the necessary accessory structure, materials, means of transportation, road rollers, tools and machinery, and railroad sidings including one portable mixing plant for the utilization of old asphalt material now wasted, all or any part of the above work to be executed by day labor or contract, as in the judgment of the commissioners may be deemed most advantageous to the District of Columbia, and the cost of the same and of any necessary incidental or contingent expenses in connection therewith shall be paid from this appropriation: *Provided further,* That the total expenditure under the above authorization for an asphalt plant and portable mixing plant shall not exceed the sum of $87,500.

Mr. Marlin E. Olmsted, of Pennsylvania, raised a question of order on the proviso, and Mr. Ben Johnson, of Kentucky, made a point of order against the entire paragraph.

After extended debate, the Chairman [3] ruled:

The language has been read from the Clerk's desk against which the gentleman from Pennsylvania made the point of order. The gentleman from Kentucky makes the point of order against the entire paragraph beginning with the words of the paragraph against which the gentleman from Pennsylvania makes the point of order. The point of order made, as the Chair understands, is that the provision is obnoxious to Rule XXI, clause 2, which reads:

"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, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as

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[1] William L. Wilson, of West Virginia, Chairman.

[2] Second session Sixty-second Congress, Record, p. 986.

[3] Finis J. Garrett, of Tennessee, Chairman.

being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill, etc."

It is insisted that this is new legislation which does not retrench expenditures in the sense and in the spirit of clause 2 of Rule XXI.

When what is called the Holman rule first appeared in the rules of the House of Representatives it was in the following form, as read to the committee by the Chairman a few moments ago:

"No appropriation shall be reported in such general appropriation bills or be in order as an amendment thereto for any expenditure not previously authorized by law unless in continuation of appropriations for such public works and objects as are already in progress, nor shall any provision in any such bill or amendment thereto changing existing law be in order except such as, being germane to the subject matter of the bill, shall retrench expenditures."

It was at the first session of the Forty-fourth Congress that the rule was adopted in that form. At the succeeding session of that Congress the rule was changed and appeared in the rules of the House in substantially its present form.

The only difference is that the rule as it now stands has in the proviso the language, following the word "committee":

"Or any joint commission authorized by law or the House Members of any such commission,"

That continued to be the rule of the House; until the rules were revised in the Forty-ninth Congress, when it was dropped. It was then restored to the rules of the House in the Fifty-second Congress, when it first appeared in the present form—that is, as to joint commissions, and so forth—and in this form continued in operation through the Fifty-second and Fifty-third Congresses.

Now, in the form that it appeared at the second session of the Forty-fourth Congress, the first part—not including the proviso—read:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

The language is specific. The language in the rule as it first appeared in the rules of the House at the first session of the Forty-fourth Congress was general in character, very like unto the language which appears now in the proviso to the rule, which proviso reads as follows:

"Provided, That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law, or the House Members of any such commission have jurisdiction of the subject matter of such amendment, which amendment, being germane to the subject matter of the bill, shall retrench expenditures."

The Chair is of opinion that the change in the rule from its original form, as adopted in the first session of the Forty-fourth Congress, was made for a purpose, and that it was the intention, and is now the intention, of the rule to fix the specific manner in which the Committee on Appropriations, reporting a proposition changing existing law, or any individual Member of the House of Representatives offering an amendment from the floor which will change existing law, may make that amendment in order; that is, it must be in one of three ways, by the reduction of salaries or by the reduction of the number of employees or by the reduction of the amount covered by the bill.

The Chair is of opinion that the Committee on Appropriations may not, under the rule, bring in as an integral part of an appropriation bill substantive legislation that, if introduced in the ordinary way in the House—that is, by bill or joint resolution presented by a Member—would go to another standing committee of the House for consideration and action; nor does the Chair think that any Member of the House may offer from his place on the floor any amendment carrying such substantive legislation, even though that legislation would retrench expenditures, unless that Member offer it as the report of a committee or as a member of a joint commission which would have jurisdiction of the subject matter under the rules of the House. In other words, the

scope is limited and the outposts are fixed by the rule to which the Committee on Appropriations may go or to which the individual Member may go.

If the Chair be correct in this, what have we here? There is proposed here upon this bill substantive legislation, not a reduction of salaries, not a reduction of the number of employees, not perhaps a reduction of the amount covered by the bill, though the Chairman does not deem it necessary to pass upon that now; but even if it were all of those, and in order to carry it out it were necessary to enact new law, to create a new industrial enterprise, a new project not now provided for by law, would it be in order? The Chair thinks not, except it be upon a report of the committee which would have jurisdiction of the subject matter if introduced as an original bill in the House of Representatives, in this case the Committee on the District of Columbia.

The Chair is fortified in this opinion by a ruling which was made at the first session of the Fifty-second Congress. At that time the following provision in the Army appropriation bill, namely, that hereafter no money appropriated for Army transportation shall be used in payment for the transportation of troops and supplies of the Army "over certain lines of railroad which are indebted to the Government," was held not in order under this rule. That decision is as follows, and the Chair will ask the Clerk to read it.

The Clerk read as follows:

"'The point of order made by the gentleman from Texas, Mr. Crain, is against the second provision on page 16 of the bill, which declares:

"That hereafter no money appropriated for Army transportation shall be used in payment of the transportation of troops and supplies of the Army over any of the nonbonded lines owned, controlled, or operated by the Union Pacific Railway Co. (including the lines of the Oregon Short Line and Utah Northern Railway Co.) or by the Southern Pacific Co. over lines embraced in its Pacific system.'

"Under the view taken by the Chair the relations between the Government and these railroad companies, as determined by the Supreme Court or otherwise, can not affect the decision of this point of order.

"The gentleman from Indiana, Mr. Holman, contends that this proposed new legislation is in order in an appropriation bill under the proviso of the second section of Rule XXI, which says:

"'It shall be in order further to amend such bill upon the report of the committee having jurisdiction of the subject matter of such amendment, which amendment, being germane to the subject matter of the bill, shall retrench expenditures.'

"The Chair is of opinion that a motion of that kind should come officially from the committee having jurisdiction and can not be brought before the Committee of the Whole House on the state of the Union as an integral part of an appropriation bill reported by the regular Committee on Appropriations."

Bottoming his action upon the reasoning which the Chairman has endeavored to state and buttressed by the precedent which has just been read, the Chairman sustains the point of order.

1564. On December 19, 1913,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph was reached providing an appropriation for the repair and improvement of streets and roads in the District of Columbia.

Mr. William P. Borland, of Missouri, proposed the following amendment:

Provided, That no portion of this appropriation shall be expended except in accordance with the following limitation: That whenever, under appropriations made by Congress, the roadway of any street, avenue, or road in the District of Columbia is improved by laying a new pavement thereon or by resurfacing an existing pavement from curb to curb or from gutter to gutter, where no curb exists, where the material used is sheet asphalt, asphalt block, asphaltic or bituminous macadam, concrete, or other fixed roadway pavement, such proportion of the total cost of the work, including all the expenses of the assessment, to be made as hereinafter prescribed,

[1] Second session Sixty-third Congress, Record, p. 1254.

shall be charged against and become a lien upon the abutting property, and assessments therefor shall be levied pro rata according to the linear frontage of said property on the street, avenue, or road, or portion thereof upon the roadway of which said new pavement is laid or the existing roadway of which is resurfaced: *Provided, however*, That there shall be excepted from such assessment the cost of paving or resurfacing the roadway space included within the intersections of streets, avenues, and roads, as said intersections are included within building lines projected, and also the cost of paving the space within such roadways for which street railway companies are responsible under their charters or under law on streets, avenues, or roads where such railways have been or shall be constructed.

The assessments herein provided for shall be levied and paid for in the following manner, namely: Where the width of the roadway actually to be paved is 40 feet or less between the curbs, or between the gutters, where no curbs exist, after deducting the amount required to be paved by the street railway companies, the total cost of the work, including the expenses of assessments, shall be assessed against the abutting property owners, one-half to each side; where the width of the street thus to be paved, after deducting the amount required to be paved by the street railway companies, shall exceed 40 feet, the cost of construction as herein provided for shall be levied and paid for as follows: The cost of constructing 20 feet on each side of said street shall be assessed against the abutting property owner, and the cost of paving the remaining portion of said street, including the cost of intersections, shall be paid for by the government of the District of Columbia out of funds available for that purpose.

Assessments levied under the provisions hereof shall be payable and collectible in the same manner and under the same penalty for nonpayment as is provided for assessments for improving sidewalks and alleys in the District of Columbia, as now provided by law: *Provided*, That the cost of publication of the notice of such assessment upon the failure to obtain personal service upon the owner of the property to be assessed therein provided for and of the services of such notices be deposited in the Treasury of the United States to the credit of the fund available for similar public work.

Mr. James R. Mann, of Illinois, made the point of order that while purporting to be a limitation the amendment was in fact legislation offered on an appropriation bill.

The committee having risen before conclusion of debate on the point of order, the Chairman [1] on the following day [2] ruled:

On yesterday, when the committee rose, a point of order made by the gentleman from Illinois against the amendment offered by the gentleman from Missouri was pending. The Chair is ready to rule on the point of order.

The point of order is based upon the ground that the amendment proposes to change existing law, and that to be in order it must meet the requirements of the essential provisions of what is known as the Holman rule. The amendment in its practical effects provides that when under the proposed law a new street, avenue, or road in the District of Columbia shall be improved by any of the methods designated, such proportions of the cost shall be charged against the abutting property and assessments shall be levied against the owners of such abutting property, and when collected shall be deposited in the United States Treasury to the credit of the funds available for that purpose. In other words, this amendment purports to be a complete, permanent, and substantive provision of law, providing that hereafter in the administration of that portion of the affairs of the District of Columbia relating to the improvement of streets or avenues and roads real estate owners shall be required to pay a certain proportion of the cost of such improvements adjacent to their own property.

This proposed law, of course, is not unlike similar laws in operation generally in the municipalities of the country which impose taxes against local benefits such as sidewalks or pavements.

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[1] Cordell Hull, of Tennessee, Chairman.

[2] Record, p. 1293.

At the present time improvements of the kind mentioned in the proposed amendment are paid for out of the general fund of the District of Columbia, which is raised one-half taxation in the District and one-half contributed from the Federal Government.

Of course the amendment does not undertake to comply with the first provision of clause 2 of Rule XXI relating to the reduction of salaries. Neither does it undertake to comply with the second provision relating to the reduction of the number of employees.

The third provision would make it necessary that the amendment should reduce the appropriation carried in the bill within the meaning and spirit of the rule as construed heretofore.

At this point another question arises relating to the germaneness of the amendment under a ruling which seems to be well established, and that is that without regard to the question of whether the amounts of the appropriations carried in the bill are reduced within the meaning of the third provision of clause 2 of Rule XXI, if the amendment constitutes separate, independent, permanent, substantive legislation, then even though it should meet the requirement as to a reduction of expenditures, it would not be in order unless it came officially from the committee having jurisdiction of the subject matter of the amendment under the terms of the proviso of clause 2, Rule XXI. This has been held in two or three well-established and generally accepted rulings.

As stated in the beginning, this amendment does contain such substantive provision of permanent law, designed for the first time to establish a system of assessments against the abutting property holders, which would require them in the future to pay a substantial portion of the expenses of street improvements. Now, this amendment does not come officially from the committee having jurisdiction of its subject matter—the Committee on the District of Columbia—but it is offered by the gentleman from Missouri in his individual capacity; and without being called upon to pass upon the question of whether a reduction of expenditures would occur within the meaning of the third provision of clause 2 or within the meaning of the proviso, the Chair feels constrained to hold that under the previous ruling requiring an amendment of this character to come from the appropriate committee as aforesaid, or to be offered under the authority of the appropriate committee, that would preclude its consideration in this connection and the point of order is sustained.

Later on the same day,[1] Mr. Ben Johnson, of Kentucky, from the Committee on the District of Columbia, by direction of that committee offered the same amendment to the bill.

Mr. Mann made the point of order that the amendment was not germane and did not retrench expenditure.

The Chairman held:

The Chair will also undertake to dispose of the other ground suggested by the gentleman from Illinois, as to whether the effect of the proposed amendment will be to retrench expenditures within the meaning of the rule. On the first question of germaneness, the Chair is of opinion that if the amendment would retrench expenditures within the meaning of the rule it would also be germane to this paragraph of the bill. It relates solely and alone to the question of improving the streets, avenues, roads for which an appropriation is being made, and seeks to modify the existing law; and if in doing so it retrenches expenditures, the Chair is of the opinion that that objection is not tenable. The proviso of clause 2 of Rule XXI is to the effect—

"That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law, or the House Members of any such commission having jurisdiction of the subject matter of amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures."

This last clause evidently means the retrenchment not only of appropriations or expenditures contained in the bill, but expenditures under the operation of the existing general law taken in connection with the provisions of the pending measure. The Chair finds from an examination

[1] Record, p. 1319.

of a number of precedents undertaking to define the scope and meaning of the term "retrenchment of expenditures" that it is not to be taken in that precise literal sense which would perhaps result in restricting the proper and logical scope of its operation. The Chair will not stop to read the precedents. It is apparent that if the General Government and the District of Columbia should shift a substantial portion of the expenses of improving the streets, avenues, and roads of the District of Columbia to the abutting property owners, a correspondingly less amount would have to be appropriated annually out of the funds of the District of Columbia to the extent of one-half and the remainder out of the Treasury of the United States. The Chair thinks it necessarily follows that the effect of the operation of the proposed amendment, keeping in view the existing general law applying to the District of Columbia and the administration of its different bureaus, divisions, and departments, together with the pending measure, it would result in retrenching expenditures within the meaning of the proviso of clause 2, Rule XXI, and therefore the Chair overrules the point of order.

1565. The proviso of the Holman rule was held to apply to amendment rather than to provisions reported by the committee in the original bill.

To invoke the Holman rule, a proposition must show on its face an indubitable retrenchment of expenditure, and a proposal to levy an assessment on farm-loan banks to reimburse the Government for expenditures incurred in their behalf was held not to comply with this requirement.

On February 25, 1920,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

In all, $294,320: *Provided,* That beginning with the fiscal year 1921 the Federal Farm Loan Board shall, as soon as possible after the close of each half of each fiscal year, levy upon the Federal land banks and joint stock land banks in proportion to their gross assets an assessment equal to the amounts expended from all appropriations on account of salaries (including any additional compensation) and expenses of the board and its appointees and employees for the half of the fiscal year then closed.

Mr. Dick T. Morgan, of Oklahoma, made the point of order that the paragraph was legislation and did not comply with the requirements of the Holman rule.

The Chairman[2] ruled:

This is, of course, new legislation and out of order on this bill unless it can be justified under the Holman rule. The first part of the Holman rule reads as follows:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures in the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

Does this item qualify on any of those conditions named? Certainly it does not retrench expenditures by the reduction of the number and salary of the officers of the United States. Certainly it does not reduce the compensation of any person paid out of the Treasury of the United States, and certainly it does not reduce the amount of money covered by the bill. Therefore it is evident that this can not be sustained under the first provision of the Holman rule. Can it be sustained under the proviso, which reads as follows:

"Provided, That it shall be in order further to amend such bill upon the report of the committee on any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures."

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[1] Second session Sixty-sixth Congress, Record, p. 3468.

[2] Nicholas Longworth, of Ohio, Chairman.

The Chair doubts very much whether the proviso of the Holman rule covers items originally put into the bill by the Committee on Appropriations, but if it could by any possibility be construed to affect original items could be the action of the Committee on Appropriations be justified here?

The Chair asked the gentleman from Indiana, Mr. Wood, whether he believed that his committee had any jurisdiction over the original subject matter, and he replied in the negative. Of course the original subject matter was under the jurisdiction of the Committee on Banking and Currency. If this were to be considered solely as a revenue measure probably it might be under the jurisdiction of the Ways and Means Committee, but evidently it is not under the original jurisdiction of the Committee on Appropriations.

Now, the gentleman from Indiana, Mr. Wood, quotes a decision of Chairman Hull on the proposition of the half-and-half plan for the District of Columbia. If that ruling is in point, it is against the contention of the gentleman from Indiana, because the decision there hinged on the jurisdiction of the Committee on the District of Columbia. It will be remembered that when that amendment was offered first by a Member of the House it was ruled out of order, and it was only when it was brought in by the Committee on the District of Columbia that it was ruled in order on the express ground that that committee had jurisdiction over the subject matter. So in the opinion of the Chair the Committee on Appropriations does not qualify under either the original portion or the proviso of the Holman rule.

Now, if any precedent is to be considered, there is a precedent less than a month old, the one cited by the gentleman from Virginia, Mr. Saunders. It was attempted on the diplomatic and consular appropriation bill to add a provision increasing the price to be paid for passports. It was sought to justify that under the Holman rule on the ground that it would retrench expenditures. But both the chairman of the committee, Mr. Madden, when the matter was before the Committee of the Whole, and the Speaker subsequently on a motion to recommit held that that provision was out of order, and, as the chair believes, rightly. But even if the Chair did not have such a very recent precedent, he would have no doubt as to how to rule on this question. It seems to the Chair that it is not his function to do any guessing on such matters as this. To justify under the Holman rule you must show conclusively, beyond cavil or doubt, that it does reduce expenditure. This is a matter of absolute doubt in the mind of the Chair. He does not know whether it would reduce expenditures or increase them, and believes he has no course except to sustain the point of order.

1566. The Committee on Appropriations is not a legislative committee, and therefore is not authorized to report a legislative provision under the proviso of the Holman rule.

A Member may offer in his individual capacity any germane amendment providing legislation on an appropriation bill if it retrenches expenditures in any one of the three methods provided by the rule.

In passing upon the admissibility of an amendment under the Holman rule the Chair must determine from the terms of the amendment whether it would effect a reduction in expenditures.

A provision requiring clerks in the classified service to work an increased number of hours was held not to be in order under the exception to the rule prohibiting legislation on an appropriation bill.

On March 11, 1916,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

SEC. 6. That the provisions of section 7 of the legislative, executive, and judicial appropriation act for the fiscal year 1899, approved March 15, 1898, and amendments thereto, requiring

[1] First session Sixty-fourth Congress, Record, p. 3977.

not less than seven hours of labor each day, except Sundays and days declared public holidays by law or Executive order, of all clerks and other employees in the several executive departments, is amended so as to provide that the heads of the several executive departments and other executive establishments and the government of the District of Columbia shall hereafter require, subject to the provisions and exceptions of said section 7 and amendments thereof, of all clerks and other employees of whatever grade or class in such executive departments and other executive establishments and the government of the District of Columbia not less than eight hours of labor each day except Sundays and days declared public holidays by law or Executive order.

Mr. Frank W. Mondell, of Wyoming, made the point of order that the provision did not come within the exception of the prohibition imposed by section 2 of Rule XXI.

The Chairman [1] held:

The gentleman from Wyoming makes a point of order against section 6 of the bill, providing in substance that the clerks of the executive departments shall work eight hours a day. The gentleman from Wyoming declares that the section is legislation and changes existing law, and therefore, under the rules of the House, is not in order on an appropriation bill.

It is the practice, under the rules of the House, that legislation is not in order on an appropriation bill unless it comes within the exception known as the Holman rule, which is clause 2 of Rule XXI. Under that rule, in certain instances, legislation is in order. Clause 2 of Rule XXI provides:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill: *Provided,* That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House members of any such commission having jurisdiction of the subject matter of such amendment, which amendment, being germane to the subject matter of the bill, shall retrench expenditures."

The Chair is of the opinion that section 6 of the bill under consideration does not retrench expenditures by the reduction of the number or salary of any officer of the United States. The Chair is also of the opinion that it does not, within the meaning of the rule, reduce the compensation of any person paid out of the Treasury of the United States, and the Chair is of the opinion that it does not reduce the amounts of money covered by the bill. So the amendment does not fall within any one of those three excepted classes.

Then the question arises that the Chair determine whether the amendment is in order under the proviso of the Holman rule. The gentleman from Missouri, Mr. Borland, and the gentleman from Wyoming, Mr. Mondell, both concede that the Committee on Appropriations is not a legislative committee. Therefore the Chair will not cite authority to that effect, although the Chair could do so.

In the opinion of the Chair, an individual Member can offer germane amendments, and if they fall within any one of the first three excepted classes the amendments are in order, even if legislation. But the Chair has ruled that in the opinion of the Chair the section in question does not come within any one of those three classes. The Committee on Appropriations, being a nonlegislative committee, has no more authority to insert as a part of a bill section 6 than any Member would have the right to offer said section 6 as an amendment on the floor of the House.

Chairman Garrett, on January 16, 1912, passing on an amendment to a provision brought in by the Committee on Appropriations, held that the Committee on Appropriations was not a legislative committee, and did not have jurisdiction of the legislative subjects that they incorporated in the bill, and therefore the section, not being authorized by a House committee or the

[1] Charles R. Crisp, of Georgia, Chairman.

members of a joint commission having jurisdiction of the subject matter, was out of order even if it retrenched expenditures, and he sustained the point of order.

Following that ruling Chairman Hull, of Tennessee, on December 20, 1913, ruled the same way, sustaining a point of order on the ground that the Committee on Appropriations was not a legislative committee, and therefore it was not in order for them to propose legislation, even though it might retrench expenditures.

The Chair does not feel, that it is incumbent upon him to pass upon section 6 as to whether or not it would reduce expenditures. The Chair, however, is of the opinion that under the Holman rule the amendment must show that a reduction naturally follows to bring it within the purview of the rule.

The Chair does not believe that the opinion of some one that the amendment might reduce and the opinion of another that it might not is legitimate for the Chair to consider; but the Chair must determine from the amendment itself whether or not its natural consequence is to reduce expenditures.

As before stated, however, the Chair is not required to pass upon that, for the Chair is clearly of the opinion that any amendment that reduces expenditures, as authorized by the proviso of clause 2 of Rule XXI, to be in order under said Holman rule must come from a committee having jurisdiction of the legislative subject. The Committee on Appropriations in this instance not being a legislative committee was without authority to insert section 6 in the bill, and therefore the Chair sustains the point of order.

1567. The proviso of the Holman rule is supplemental to and extends rather than restricts the scope and operation of the rule, and while the Committee on Appropriations is not a legislative committee, it has the same privilege of reporting legislation on an appropriation bill retrenching expenditure as that accorded Members on the floor to propose amendments reducing expenditures in one or more of the three methods provided in the rule.

The power to modify a law infers the power to repeal it, and a proposition to repeal a section of a law establishing certain offices, is in order on an appropriation bill.

On February 23, 1920,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A point of order raised by Mr. Edward W. Saunders, of Virginia, was pending on the following:

LEGISLATIVE DRAFTING SERVICE

Section 1303 of the "revenue act of 1918" is repealed on and after July 1, 1920.

Mr. Finis J. Garrett, of Tennessee, in discussing the point of order said:

Mr. Chairman, I think it hardly necessary to state the obvious fact that the point of order now pending is an extremely important one, and for that reason justifies that careful consideration which I know the present occupant of the chair will give, and I am sure is giving, to its final decision. The provision in the bill to which the point of order is leveled appears on page 9, lines 15 and 16, and consists simply of this:

"Section 1303 of the revenue act of 1918 is repealed on and after July 1, 1920."

[1] Second session Sixty-sixth Congress, Record p. 3364.

That is brought in by the Committee on Appropriations as an integral part of the bill, and it is insisted that it is in order under what is commonly known as the Holman rule. I venture to read this rule in full:

"Nor shall any provision in any such bill"—

That is, appropriation bill—

"or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill: *Provided,* That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures."

It will be admitted, I take it, that the Committee on Appropriations has no jurisdiction over the legislation that is proposed, therefore it can not be in order under the proviso of the Holman rule.

Mr. Chairman, I think it is perfectly legitimate to direct attention as illustrating the importance of the matter now before the Chair, to the effect of a ruling which would overrule the point of order. It would then be in order for the Committee on Appropriations to bring in as an integral part of its bills a provision repealing any law whatsoever which carried a charge upon the Treasury. Not only that, but it would be in order, I fear, for any individual Member to offer on the floor of the House a proposition to repeal any existing law which carries a charge upon the Treasury.

The jurisdiction of the Committee on Appropriations is wholly for making appropriations, not for the purpose of making or unmaking law. The Committee on Appropriations may report a provision reducing to 1 cent, as was done in the case of the Commerce Court, but no effort was made to repeal the law. The Appropriations Committee can do that and bring it in as an integral part of the bill. Any individual can offer it from the floor of the House and it is in order, but this is confined to appropriations and this proposal is not an appropriation; this is legislation.

The Chairman[1] ruled:

The question for the Chair to determine arises under a point of order made by the gentleman from Virginia to the item carried in the bill repealing section 1303 of the revenue law. The gentleman from Virginia contends that this is a change of existing law and does not come under the Holman rule. The gentleman from Indiana admits that it is a change of existing law but contends that it does come under the Holman rule. The Chair realizes that this is a question of some considerable importance, not only as to how his ruling may affect this particular item, but as to how it may affect other items of this bill and of other appropriation measures which may come before the House. The Chair is glad that he has had opportunity, owing to the adjournment of the committee on last Friday, to give this matter some considerable investigation. He has examined the precedents submitted by the gentleman from Virginia, as well as a number of other precedents, and it must be confessed that the more one investigates the decisions under the Holman rule the more one's mind becomes confused and perplexed rather than clarified, for they are many and various and in some cases as far apart as the poles. Under the circumstances the Chair conceives it to be his duty to avoid technicalities in so far as possible, and to interpret as best he can the real purpose and intent of the rule. The Chair is inclined to think that this great diversity of ruling on the Holman rule comes from a misapprehension of just what it really means and particularly from a confusion between the proviso and the main part of the rule, which runs as follows:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

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[1] Nicholas Longworth, of Ohio, Chairman.

So far that is the original Holman rule. It was subsequently amended by adding this proviso:

"Provided, That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures."

The Chair thinks that these provisions must be construed separately and apart. Under the proviso, to qualify under the Holman rule it is necessary that the committee submitting the item should have jurisdiction of the original subject matter. Under the first part of the Holman rule there is no such provision. The only thing necessary to qualify under the main part of the Holman rule when you seek to change existing law either by committee or individual action is to show first that you provision is germane and that it necessarily and indubitably effects a reduction of expenses.

As the gentleman from Virginia has stated, the present occupant of the chair has on a number of occasions, both in the chair and on the floor, said that he thought that the Holman rule should be construed strictly. That is true, but the Chair had particular reference in that statement to the proposition that a saving of expenditure must appear beyond all cavil. There must be no doubt about that, nor, in the opinion of the Chair, can there be any doubt in this particular case. The section which the item under consideration repeals creates a commission of two men, providing for their salaries and giving them the power to appoint assistants and fix their salaries, and carries an appropriation therefor. If this House intends to continue the legislative drafting bureau, how can it provide for it? In what bill should any provision for it be carried? Obviously in this particular bill. And where should it be carried? Obviously in the particular place where it is carried in this bill.

The Committee on Appropriations is of the opinion that this commission is unnecessary and proposes to abolish it. Nobody will contend that the committee would not have had the power and at this particular point to have brought in a change of existing law providing for the reduction of the number of officers and of the amount carried. Nobody will contend that the committee might not have brought in a provision at this point reducing the number of this commission to one and appropriating 1 cent to pay for its continuance, thus nullifying the law. But the committee preferred to abolish the commission altogether by repealing the law.

Some distinction has been sought to be made between the question of repealing a law and changing it. The gentleman from Virginia admits that you may change the law, but he questions whether you may repeal the law through any means except by a report of a committee which originally had jurisdiction of the subject matter.

Now, the Chair is unable to follow that line of reasoning. The Chair thinks that a repeal of a law is a change of existing law in contemplation of the Holman rule. It necessarily must be a change of existing law, and the Holman rule very clearly provides that you may change existing law provided you reduce the number of officers and the amount of money to be expended. The Chair does not see how the proviso of the Holman rule modifies the main proposition in this respect.

Under the circumstances, while the Chair realizes that such a ruling may afford considerable opportunity for committees to repeal laws and for Members of the House to offer amendments which repeal laws, he feels compelled to hold, under the Holman rule, that such propositions are in order if they are germane to the bill and necessarily reduce expenditures.

The Chair, therefore, feels constrained to overrule the point of order.

1568. A provision reported in the bill, and within the jurisdiction of the committee reporting it, but stricken out on a point of order in Committee of the Whole, was held to have been authorized by the committee within the meaning of the proviso in the Holman rule when subsequently offered, with the offending matter omitted, by a Member acting in individual capacity.

On February 13, 1912,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was ruled out of the bill on a point of order submitted by Mr. George W. Prince, of Illinois, against the proviso in the paragraph:

SEC. 2. That hereafter all enlistments in the Army shall be made for the term of five years, and for all enlistments hereafter accomplished five years shall be counted as an enlistment period in computing continuous-service pay: *Provided,* That, in the absence of express authority hereafter given by Congress, the uniforms of officers and enlisted men of the Army shall hereafter be and remain as prescribed by War Department orders in force on the 25th day of May, 1911, except for such changes as can be made in the uniforms of enlisted men without loss or additional expense to the Government.

On February 15, 1912,[2] Mr. James Hay, of Virginia, offered the paragraph, with the proviso omitted, as an amendment.

Mr. Prince raised a question of order on the amendment as follows:

I make the point of order against that section as offered. The reason for my making the point of order is as follows: In the House Manual I find this language pertaining to Rule XXI:

"*Provided,* That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law, or the House members of any such commission; having jurisdiction of the subject matter of such amendment.'"

This amendment is not offered by the committee. This is an amendment offered by an individual member of the Committee of the Whole to amend this bill. This is an amendment offered by an individual member of the Committee of the Whole and not an amendment to the bill upon the report of the committee or any joint commission authorized by law, or the House members of any such committee having jurisdiction of the subject matter.

To put it a little plainer, if I can, the objection to the amendment consists of three propositions:

First, this being an amendment offered by an individual Member in the Committee of the Whole for the consideration of this bill does not put it under the rule. The rule says it shall be in order to amend the bill on the report of the committee. The committee has not made a report. True, it was in the original bill; but the paragraph was subject to a point of order, and the Chair has ruled that section entirely out of the bill. Therefore, the action of the committee was unauthorized, as evidenced by the ruling of the Chair when the point of order was made against the report of the committee. So far section 2 is concerned, it promptly went out.

Now, the committee has not had another meeting, they have not even been called together for the purpose of considering whether they want the amendment made as a committee amendment or not, and therefore, not being a committee amendment, the Member has no right to offer it.

Neither does it come from any commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment. I insist again that under this rule the amendment brought in the manner it is, without a report of the committee, is still subject to a point of order, and I confidently expect the Chair to rule it out.

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[1] Second session Sixty-second Congress, Record, p. 2030.

[2] Record, p. 2094.

The Chairman [1] held:

The Chair has no difficulty with the situation. Section 2 is composed of two parts. While they are reported together, they have no sort of relation or connection with each other. They are not dependent the one upon the other. The merits of the one have no relation to the merits of the other. While embodied in one paragraph, they are as separate and distinct in their nature and intended operation as two things can well be. The Chair is required under the precedents to support a point of order directed to a whole section when a segregated portion of that section is, in the judgment of the Chair, not in order. But the balance or offending portion of the section has been eliminated in the amendment submitted. It may be fairly said of the amendment now offered by the gentleman from Virginia that it has been reported by the committee to this House since it was included in the committee's bill. But, while the amendment can be supported on the ground indicated, the Chair does not rest its conclusion on that ground alone. The ruling that was made by the Chair a few days since on the amendment respecting the Cavalry regiments would support the regularity and order of the amendment now submitted by the gentleman from Virginia in his individual capacity. So that, from either point of view, the Chair thinks the amendment is in order. The Chair, therefore, overrules the point of order.

1569. The report of a committee as provided for in the proviso of the Holman rule must be formally authorized by the committee and presented in writing.

To come within the provisions of the Holman rule an amendment must include legislation necessary to accomplish the reduction proposed in the pending bill; otherwise permanent substantive legislation is not in order.

On January 6, 1925,[2] the first deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

Conveying votes of electors for President and Vice President: For the payment of the messengers of the respective States for conveying to the seat of government the votes of the electors of said States for President and Vice President of the United States, at the rate of 25 cents for every mile of the estimated distance by the most usual roads traveled from the place of meeting of the electors to the seat of government of the United States, computed for one distance only, $14,000.

Mr. John L. Cable, of Ohio, thereupon offered the following amendment:

Amendment offered by Mr. Cable at the direction of the Committee on Election of President, Vice President, and Representatives in Congress:

"Strike out the paragraph and insert in lieu thereof the following: "'That section 140 of the Revised Statutes of the United States be, and the same is hereby, amended so as to read as follows:

"'SEC. 140. The electors shall dispose of the certificates thus made by them in the following manner: (1) They shall forthwith forward by United States registered mail one of such certificates to the President of the Senate of the United States at the seat of government; (2) the first day thereafter they shall forthwith forward by United States registered mail one of such certificates to the President of the Senate of the United States at the seat of government; (3) they shall forthwith cause the other of the certificates to be delivered to the judge of that district in which the electors shall assemble.'

"'That section 145 of the United States Statutes be, and the same is hereby, repealed.'"

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[1] Edward W. Saunders, of Virginia, Chairman.

[2] Second session Sixty-eighth Congress, Record, p. 1349.

Mr. Martin B. Madden, of Illinois, made a point of order and said:

In the absence of a report from the legislative committee having jurisdiction, the question arises as to whether it would retrench expenditures by the reduction of amounts of money covered by the bill. It would not do for it to retrench expenditures in connection with future elections. It must definitely and positively show that it will reduce the amount of money covered by this bill and not result in a claim against the Government for mileage under section 144 of the Revised Statutes.

Mr. Cable maintained that the amendment, by striking out the paragraph for which it was offered as a substitute, reduced expenditures to the amount of the $14,000 which the paragraph appropriated.

A question being raised by Mr. Finis J. Garrett, of Tennessee, as to the authorization of the amendment by the Committee on Election of President, Vice President, and Representatives in Congress, having jurisdiction of the subject matter, Mr. Cable explained:

The Committee on Election of President and Vice President has had up for some time a consideration of this matter. The gentleman from Texas, Mr. Sumners, has had a hearing or two, and I have had a hearing on my bill, and yesterday a motion was passed by the committee instructing me to offer this as an amendment to the appropriation bill.

Mr. Garrett said:

I do not think that would meet the situation that is required by the rule; I am not arguing except this one thing at this particular time. I think that which was under contemplation under the Holman rule was that the proposition must have been adopted as a bill by a committee having jurisdiction of the subject matter, and then as such offered as an amendment. I do not believe it was in contemplation under the Holman rule that one legislative committee might simply meet and direct its Chairman or any one of its members to offer some amendment to a bill brought in from the Committee on Appropriations.

The Chairman [1] ruled:

To be order, this amendment very clearly must come within the Holman rule. It is evident that it is legislation upon an appropriation bill.

If necessary for the determination of the point of order, the Chair would be inclined to hold that the proposed amendment is germane to the paragraph to which it is offered. The practical questions that have been raised with reference to the possibility of passing the legislation in time to be effective this year would be interesting, but in the opinion of the Chair not necessary to pass upon, in the view that he takes of the precedents.

Clearly the amendment does not come within the first part of the Holman rule, reading as follows:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

This clause in the rule follows the sentence reading as follows:

"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, unless in continuation of appropriations for such public works and objects as are already in progress."

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[1] Carl R. Chindblom, of Illinois, Chairman.

Then follows the paragraph or the sentence which the Chair just read relative to the three cases in which a retrenchment of expenditures may occur by the methods specifically set out. Following that, however, is this proviso:

"Provided, That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment, which amendment, being germane to the subject matter of the bill, shall retrench expenditures."

In the view of the present occupant of the Chair the important question is whether we have before us the report of the committee having jurisdiction of the proposed amendment. The distinguished gentleman from Tennessee, Mr. Garrett, passed upon a similar question on January 16, 1912, when the gentleman from Tennessee considered the language of the proviso and himself used the following language:

"The Chair is of opinion that the Committee on Appropriations may not, under the rule, bring in as an integral part of an appropriation bill substantive legislation that if introduced in the ordinary way in the House—that is, by bill or joint resolution presented by a Member—would go to another standing committee of the House for consideration and action; nor does the Chair think that any Member of the House may offer from his place on the floor any amendment carrying such substantive legislation, even though that legislation would retrench expenditures, unless that Member offer it as the report of a committee or as a member of a joint commission which would have jurisdiction of the subject matter under the rules of the House. In other words, the scope is limited, and the outposts are fixed by the rule, to which the Committee on Appropriations may go or to which the individual member may go."

There is an orderly procedure provided by the rules for the submission of reports of committees. The action of committees may, in a sense, be reported orally to the House in the course of debate for the information of the House, but the Chair hardly believe that that is the action contemplated by the proviso in the Holman rule. When the rules given permission for their violation in exceptional cases, such as this is, and use a term such as the word "report," which has a specific meaning in the rules and in the knowledge of all the Members of the House, it would seem that in the interest of orderly procedure in the House the usual ordinary meaning or construction given to the term should be applied; otherwise, as was done in this case, a committee may hold a meeting and pass a resolution directing the Chairman or some member to offer an amendment on the floor of the House, without having in the usual way passed upon the legislation and submitted a legislative bill with a report setting forth to the House the reasons for the recommendation of the legislation. The Chair admits that the question may be a little close, but on the whole the Chair is of the opinion that this amendment does not come before the committee with a report from the committee such as is contemplated by the proviso in the Holman rule. It is to be noted that paragraph 2 of Rule XVIII requires that "all bills, petitions, memorials, or resolutions reported from a committee shall be accompanied by reports in writing, which shall be printed."

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The Chair will say, with reference to the suggestion made by the gentleman from Ohio, that in order to come within the first part of the rule it must appear clearly that the reduction in expenditures would apply to the current appropriation or the appropriation before the House and not merely with reference to future expenditures in connection with the matter of substantive legislation which is passed. And in that connection it is somewhat significant that even the proponents of this amendment, while they propose to amend section 140 of the law relative to presidential elections and to repeal section 145, take no action with reference to section 141, 142, 143, and 144. In that connection the Chair will read section 144:

"Each of the persons appointed by the electors to deliver the certificates of votes to the President of the Senate shall be allowed, on the delivery of the list intrusted to him, 25 cents for every mile of the estimated distance, by the most usual road, from the place of meeting of the electors to the seat of government of the United States."

That section will remain in force, and very properly so, because if the proposed legislation should not be passed in time to affect the return of the votes by the messengers, they could come in for a deficiency appropriation thereafter.

On the whole the Chair can not escape the conviction that the rules contemplate a more formal and more definite action by way of report upon legislation from a legislative committee than is contained in the mere direction to the chairman of a committee to present an amendment after an appropriation bill is ready for action in the House and in the Committee of the Whole. The Chair, therefore, sustains the point of order.

1570. To be in order under the proviso of clause 2, Rule XXI, an amendment must be authorized by the committee having jurisdiction of the subject matter proposed.

An amendment providing for a reapportionment reducing the membership of the House was held not to be in order under the Holman rule.

On February 12, 1925,[1] the legislative appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and the Clerk read this paragraph:

For compensation of Members of the House of Representatives, Delegates from Territories, the Resident Commissioner from Porto Rico, and the Resident Commissioners from the Philippine Islands, $3,304,500.

Mr. Thomas L. Blanton, of Texas, offered an amendment as follows:

Strike out "$3,304,500" and the period and insert in lieu thereof "$2,322,000," a colon, and the following proviso, to wit:

"Provided, (a) That, beginning with the 1st day of July, 1925, the House of Representatives shall be composed of 304 members, to be apportioned among the several States, as follows:

"Alabama, 7; Arizona, 1; Arkansas, 5; California, 10; Colorado, 3; Connecticut, 4; Delaware, 1; Florida, 3; Georgia, 8; Idaho, 1; Illinois, 19; Indiana, 8; Iowa, 7; Kansas, 5; Kentucky, 7; Louisiana, 5; Maine, 2; Maryland, 4; Massachusetts, 11; Michigan, 10; Minnesota, 7; Mississippi 5; Missouri, 10; Montana, 2; Nebraska, 1; Nevada, 1; New Hampshire, 1; New Jersey, 9; New Mexico, 1; New York, 30; North Carolina, 7; North Dakota, 2; Ohio, 16; Oklahoma, 6; Oregon, 2; Pennsylvania, 25; Rhode Island, 2; South Carolina, 5; South Dakota, 2; Tennessee, 7; Texas, 13; Utah, 1; Vermont, 1; Virginia, 7; Washington, 4; West Virginia, 4; Wisconsin, 8; Wyoming, 1.

"(b) That in effecting this proposed economy and retrenchment in governmental expenses where the provisions of this bill reduces the present representation of a State in Congress the delegation of such State, before July 1, 1925, shall decide by lot which of its Representatives shall be eliminated for service during the remainder of the Sixty-ninth Congress.

"(c) That in each State entitled under this apportionment to more than one Representative the Representatives to the Seventieth and each subsequent Congress shall be elected by districts composed of a contiguous and compact territory, and containing as nearly as practicable an equal number of inhabitants. The said districts shall be equal to the number of Representatives to which such State may be entitled in Congress, no district electing more than one Representative.

"(d) That in all States in which the present number of Representatives has been changed under this apportionment, until such States shall be redistricted in the manner provided by the laws thereof, and in accordance with the provisions of section 3 of this act, the Representatives from each State not so redistricted shall be elected by the State at large; and if there be no change in the number of Representatives from a State, the Representatives thereof shall be elected from the districts now prescribed by law until such State shall be redistricted as herein prescribed.

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[1] Second session Sixty-eighth Congress, Record, p. 3589.

"(e) That candidates for representative or Representatives to be elected at large in any State shall be nominated in the same manner as candidates for governor, unless otherwise provided by the laws of such State."

Mr. John Philip Hill, of Maryland, made the point of order that the amendment was legislation and did not come within the provisions of the Holman rule.

The Chairman ruled: [1]

The Chair appreciates the fact that the amendment would reduce the amount of money paid out of the Treasury of the United States, but the amendment goes very much further than that in the way of changing existing law; in fact, the legislation is the main part of the amendment. Paragraph 958 of the Manual, under "Important decisions," reads as follows:

"An amendment changing existing law, under the proviso of clause 2, Rule XXI, must be authorized by the House committee having jurisdiction of the subject matter of such legislation."

This legislation would properly come from the Committee on the Census and could not be offered at this time by either the Committee on Appropriations or by an individual from the floor.

And the Chair bases his decision also on the decision rendered by Chairman Chindblom just the other day in reference to an amendment offered by the gentleman from Ohio, Mr. Cable, in regard to sending messengers to Washington with the electoral vote. The Chair at that time sustained the point of order against the amendment on the ground that the legislation did not come from a committee having jurisdiction over that legislation. The Chair would also further refer to a decision made by Representative Garrett, of Tennessee, in which he distinctly states:

"The Chair is of the opinion that the Committee on Appropriations may not under the rule bring in as an integral part of an appropriation bill substantive legislation that, if introduced in the ordinary way in the House—that is, by bill or joint resolution presented by a Member—would go to another standing committee of the House for consideration and action."

On the basis that this amendment, if it could be introduced, must come from a committee having jurisdiction over the same, the point of order is sustained.

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[1] Bertrand H. Snell, of New York, Chairman.

Chapter CCXXVI.[1]

SENATE AMENDMENTS TO GENERAL APPROPRIATION BILLS OR PROVIDING APPROPRIATIONS ON OTHER BILLS.

1571. Senate amendments proposing legislation or unauthorized appropriations on general appropriation bills, or appropriations on other bills, must with certain exceptions, be severally submitted to the House.

Section 2 of Rule XX 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, 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.

The submission of Senate amendments as integral parts of conference reports requiring adoption or rejection as a whole and to that extent preventing separate consideration of amendments which if offered in the House would be subject to points of order, was a subject of discussion from a very early date. On June 1, 1920, the procedure was modified by the adoption of the above rule in connection with other amendments to the rules designed to centralize control of expenditures.

In effect, the rule insures the House an opportunity to pass separately on appropriations proposed by the Senate to any House bill which are obnoxious to clause 2 of Rule XXI, including the Holman rule.

The rule contemplates a resolution or motion instructing House conferees, but as a matter of practice it is customary for the conferees to bring in a conference report omitting amendments affected by the rule, and after consideration and disposition of the report, amendments remaining in disagreement are then considered and disposed of by the House without further conference.

[1] This chapter has no analogy with any previous chapter.

1572. Senate amendments interdicted by clause 2, Rule XXI, are not subject to a point of order under the rule providing for a separate vote on such amendments when considered in the House, as the rule applies to conferees and their reports only.

Under the practice, it is customary for conferees to bring in a conference report on items agreed upon and report disagreement on all amendments coming within the rule and, the conference report having been agreed to, amendments in disagreement are then voted upon separately.

Debate on Senate amendments reported in disagreement by managers on the part of the House is under the hour rule, but the Member in charge in entitled to prior recognition and may move the previous question.

On February 15, 1921,[1] Mr. Charles R. Davis, of Minnesota, called up the conference report on the District of Columbia appropriation bill and certain Senate amendments thereto requiring a separate vote in the House.

Mr. James P. Buchanan, of Texas, asked as a parliamentary inquiry:

The amendments of the Senate that do not involve new legislation that we agreed to are before the House for adoption. The amendments of the Senate that did involve new legislation, and that we thought advisable to report back to the House for action are also in that conference report. The inquiry is at what period during the proceedings are we to consider the amendments that involve new legislation, which we report back to the House. Is it after the adoption of the conference report?

The Speaker[2] decided:

The Chair thinks the first vote would be on agreeing to the conference report, and that after that the amendments reported back would come up.

Mr. Thomas U. Sisson, of Mississippi inquired if debate would be in order on the Senate amendments to be voted on by the House.

The Speaker held:

Unless the gentleman from Minnesota moves the previous question. On each amendment as it comes up the gentleman from Minnesota, Mr. Davis, is entitled to the floor and entitled to hold the floor for one hour, or yield that time, or move the previous question.

The conference report having been agreed to, the first Senate amendment was read, when Mr. James V. McClintic, of Oklahoma, inquired whether the amendment was subject to a point of order.

The Speaker held that no Senate amendment was subject to a point of order in the House, and that the rule as to Senate amendments on appropriation bills applied only to conferees and their action in conference; that the Senate amendments were not regularly before the House and the House might concur, insist on disagreement, concur with amendments, or authorize the conferees to return to conference; and that any conference report submitted by conferees in violation of the rule requiring authorization by the House would be subject to a point of order.

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[1] Third session Sixty-sixth Congress, Record. p. 3208.

[2] Frederick H. Gillet, of Massachusetts, Speaker.

1573. On February 19, 1921,[1] Mr. John A. Elston, of California, called up the conference report on the Indian appropriation bill.

The conference report was agreed to and the House proceeded to the consideration of Senate amendments requiring a separate vote under the rule and reported as in disagreement by the managers on the part of the House.

Senate amendment numbered 13, providing for the continuation of the Hope Indian School for Girls at Springfield, S. Dak., being read, Mr. Homer P. Snyder, of New York, made the point of order that it was legislation, unauthorized by law, and not in order on an appropriation bill.

The Speaker[2] held:

It may not be proper for the House to put it on. That, of course, does not apply to the Senate. This is a new rule, and perhaps it is well to have it settled, as the gentleman says. The rule provides that a conference committee shall not agree to certain new legislation put in by the Senate. After a bill goes to the Senate and comes back from conference, then the conferees can not have agreed to legislation without specific authority from the House. But there is not rule to prevent the House considering such legislation put in by the Senate, and no point of order lies against it.

1574. Unanimous consent to take from the Speaker's table and send to conference a bill with Senate amendments does not waive the provisions of the rule requiring separate vote in the House on certain Senate amendments to appropriation bills.

A conference report agreeing to Senate amendments falling within the rule, and on which the House has been given no opportunity to vote, is subject to a point of order, and a point of order sustained against any such item invalidates the entire report.

On January 22, 1921,[3] Mr. Charles R. Davis, of Minnesota, asked unanimous consent to take from the Speaker's table the District of Columbia appropriation bill with Senate amendments thereto, disagree to the amendments, and agree to the conference requested by the Senate.

Pending this request, Mr. Carl E. Mapes, of Michigan, inquired:

Mr. Speaker, reserving the right to object, this is the first big appropriation bill, I believe, to be sent to conference since the adoption of the new rule increasing the Committee on Appropriations and limiting the power of the conferees from that committee to accept Senate amendments to appropriation bills that would have been subject to a point of order if offered in the House of Representatives, on account of being legislation on an appropriation bill.

This bill contains several Senate amendments in the nature of legislation which have been considered by the Committee on the District of Columbia, and some of them have been passed upon by the House of Representatives itself. In fact, one of the Senate amendments to the bill, or the substance of it, is now in conference between the two Houses, represented by the legislative committee. I have no desire to object to the unanimous-consent request, because I think the conferees to be appointed by the House are in accord with the action that the House has

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[1] Third session Sixty-sixth Congress, Record, p. 3506.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Third session Sixty-sixth Congress, Record, p. 1889.

heretofore taken, but to protect the rights of the House and of the legislative committee I would like to have an interpretation of the new rule by the Speaker. The rule provides that:

"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 an appropriation upon any bill other than the 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 separate vote on every such amendment."

My question, Mr. Speaker, is when should those who are interested in the Senate amendments raise the point of order to protect their rights? Can it be done after the conferees make their report or should it be done now before the bill goes to conference?

Thereupon Mr. Finis J. Garrett, of Tennessee, submitted in writing a parliamentary inquiry, which was read by the Clerk as follows:

Mr. Garrett submits the following parliamentary inquiry: Section 2 of Rule XX provides

"Section 2, Rule XX:

"2. 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 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."

If the House by unanimous consent or by special resolution from the Committee on Rules disagrees to all Senate amendments en bloc and asks for or agrees to a conference with the Senate, and there are Senate amendments obnoxious to the rule above quoted and the conferees without instructions from the House recede from their disagreement and agree to such amendments, will the conference report so including such illegal amendments by subject to a point of order, as in cases where conferees exceed their authority and include in their report matters not in disagreement?

The Speaker [1] said:

This rule is a radical departure from the custom of the House in the past, and it is, as the gentleman from Tennessee and the gentleman from Michigan suggest, important that the House should know in advance what the ruling of the Chair would be, and both gentlemen were courteous enough to suggest to the Chair in advance that they wished to raise the question, and the Chair has been considering it.

What the Chair wishes to do, as every Member of the House will wish, is to adopt the system which will best further the business of the House. It is very obvious that this new rule is going to interfere with the past methods of conferences, because as the gentleman from Tennessee suggests, the House conferees do not go into "a free conference"; they are hampered by this rule, and what the Senate conferees will do it is impossible to predict.

At the same time the Chair, of course, is bound as far as practicable, to give the interpretation which the Chair thinks was intended by the House in adopting the rule, and also to facilitate the transaction of business. It might be construed, and I suppose this is the point which the gentlemen both wish to have settled, that when the House by unanimous consent disagrees to the Senate amendments and sends the bill to conference, the House thereby waives the provisions of the new rule, which says that there shall be a separate vote upon each question which is subject to the rule. But the Chair thinks that certainly would be a strained interpretation, and one which, at first, at any rate, ought not to be adopted. We ought at least to have some experience under the rule, and let it develop and see what difficulties arise; and, at any rate, at the outset we ought to more strictly follow the specific language of the rule, which is that nothing "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."

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

The Chair does not imagine that that means in the future that there will necessarily be a separate vote, after the conferees have reported, on every such provision. The Chair thinks very likely by such agreement the House could, if it desired to, have unanimous consent and agree to them en bloc. But the Chair thinks that now the ruling ought to be that if the conferees should agree to an item which was repugnant to this rule, it would so far invalidate the conference report that anybody could make the point of order against it. Therefore, disagreeing by unanimous consent to the Senate amendments and agreeing to the conference asked for by the Senate leaves it subject to a point of order, if the conferees in any respect agree to an item which is obnoxious to the rule.

The purpose of the clause of the rule is to prevent conference committees on appropriation bills legislating without the permission of the House, and the rule provides that the conference committees shall not have the right to agree to a Senate amendment which is obnoxious to the rule.

1575. Instance wherein the rule requiring separate vote on Senate amendments to appropriation bills was waived by unanimous consent and conferees were authorized to agree to such amendments in conference.

On December 12, 1930,[1] Mr. William R. Wood, of Indiana, submitted the following request:

Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 14804) making appropriations for emergency construction, disagree to the Senate amendments, and ask for a conference with the Senate; and, further, that the managers on the part of the House at the conference on the disagreeing votes of the two House on such bill be given special authority, as provided by clause 2 of Rule XX, to agree to any amendment of the Senate providing for an appropriation.

I will say that the purpose of asking this authority is because of the fact that this bill is not a general appropriation bill, and when we come to conference the conferees could not agree on matters of appropriation.

Mr. William B. Bankhead, of Alabama, inquired if agreement to the request was such a waiver as would preclude points of order by any Member of the House on that phase of the conference report.

The Speaker[2] said:

The Chair thinks it would have the effect of waiving the point of order provided by clause 2 of Rule XX, but not as to anything else.

Is there objection to the request of the gentleman from Indiana?

There being no objection, the request was agreed to, and the Speaker announced the appointment of conferees.

1576. A point of order will not lie against a Senate amendment providing an appropriation on a House bill at the time request is made to take the bill from the Speaker's table and send it to conference for the reason that the bill is not then under consideration.

On February 11, 1921,[3] Mr. James W. Good, of Iowa, asked unanimous consent to take from the Speaker's table and send to conference the sundry civil appropriation bill.

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[1] Third session Seventy-first Congress, Record, p. 633.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] Third session Sixty-sixth Congress, Record, p. 3029.

Mr. Thomas L. Blanton, of Texas, presented a point of order against Senate amendment numbered 143, appropriating $225,000 for the United States Employment Service.

The Speaker[1] declined to entertain the point of order for the reason that the bill and amendments were not under consideration at the time.

On the following day,[2] Mr. John A. Elston, of California, submitted the same request with reference to the Indian appropriation bill, when Mr. Charles D. Carter, of Oklahoma, called attention to the ruling made on the point of order raised by Mr. Blanton on the preceding day and inquired if it applied to the bill affected by the pending request.

Mr. James R. Mann, of Illinois, said:

A Senate amendment is not subject to a point of order under the rules of the House. The conferees are not authorized to agree to the Senate amendment, and if they did that without authority of the House and brought in a conference report the conference report would be subject to a point of order. You can not make a point of order to a Senate amendment. The rule is that the conferees can not agree to the Senate amendment without authority from the House, and the conference report that did attempt to agree to it would be subject to a point of order.

The ruling previously made on the point of order was affirmed by the Speaker.

1577. Managers on the part of the House may be authorized by resolution reported from the Committee on Rules to agree to Senate amendments carrying appropriations on a bill not originating as an appropriation bill in the House.

On October 27, 1921,[3] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, reported, by direction of that committee, the following resolution:

Resolved, That the managers on the part of the House on the committee of conference on the disagreeing votes of the two Houses on the bill (S. 1072) be, and they are hereby, given specific authority, as provided by clause 2 of Rule XX, to agree to an amendment of the Senate providing for an appropriation.

Mr. Campbell explained:

Mr. Speaker, under the rules of the House the conferees can not agree to a Senate amendment to a House bill providing for an appropriation, the bill not having originated in the House Committee on Appropriations or reported by that committee. This is the road bill. The Senate so amended it that it carries an appropriation. This is to authorize the conferees on the part of the House to agree with the Senate conferees on an appropriation, so that the bill may be disposed of and handled in the House as the House sees fit. It is provided for under the rule.

The resolution was agreed to by the House.

On November 1,[4] Mr. John M. Robsion, of Kentucky, called up the conference report on the bill (S. 1072), when Mr. Joseph Walsh, of Massachusetts, raised a question of order and said:

The conferees have exceeded their authority under the rules of the House in that, first, they have reported a provision making an appropriation of $5,000,000 for the fiscal year ending

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Record, p. 3072.

[3] First session Sixty-seventh Congress, Record, p. 6897.

[4] Record, p. 7119.

June 30, 1922, for forest roads and trails, carried in section 23, and $10,000,000 for the year ending June 30, 1923, to be available until expended.

I make the further point of order that the conferees are not authorized to agree to various appropriations made in this bill, notwithstanding the action of the House last Thursday in passing a resolution, which reads:

"Resolved, That the managers on the part of the House on the committee of conference on the disagreeing votes of the two Houses on the bill (S. 1072) be, and they are hereby, given specific authority, as provided by clause 2 of Rule XX, to agree to an amendment of the Senate providing for an appropriation."

Clause 2 of Rule XX reads as follows:

"No amendment of the Senate to a general appropriation bill which would be in violation of the provision of clause 2 of Rule XXI, if said amendment had originated in the House, nor any amendment of the Senate providing 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."

Now, Mr. Speaker, here is a bill carrying an appropriation of $75,000,000, I believe, for aiding the States in the construction of post roads and rural roads and carrying an appropriation for building roads through forests and the construction of forest roads and trails. That provision, in my opinion, is clearly beyond the scope of this measure, and, being beyond the scope of the measure, notwithstanding it is inserted in the bill by the Senate by way of an amendment, unless specific authority is given to the House to agree to that particular amendment, I submit that they are without authority under the rule, notwithstanding the resolution to agree to it.

Rule XI, paragraph 54a, creates a Committee on Roads:

"To matters relating to the construction or maintenance of roads, other than appropriations therefor—to the Committee on Roads: *Provided,* That it shall not be in order for any bill providing general legislation in relation to roads to contain any provision for any specific road, nor for any bill in relation to a specific road to embrace a provision in relation to any other specific road."

Now, forest trails are not within the jurisdiction of the Committee on Roads. The national forests come within the jurisdiction of another committee, and in so far as they are embraced within the jurisdiction of another committee, an appropriation for that purpose in a general road bill is equivalent to making an appropriation for a specific road. Therefore, Mr. Speaker, with reference to section 23 the conferees in my judgment have exceeded their authority.

With reference to the resolution passed by the House, that was an endeavor to permit the conferees to agree to an appropriation. The purpose of that rule, as it was stated here when it was offered, was to permit the House to have a separate vote on appropriations that had been inserted in measures originating in the House and which would have been out of order had they been offered by Members on the floor as amendments to the bill, inserted in the other body and coming back to this House and being sent to conference.

The Speaker [1] overruled the point of order on the ground that the resolution adopted by the House on the report of the Committee on Rules was for the express purpose of nullifying section 2 of Rule XX in this particular instance, and was agreed to by the House with that purpose in view.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

1578. A Senate amendment extending the jurisdiction of a commission in the expenditure of money already appropriated was held not to come within the provisions of the rule requiring a separate vote by the House.

On September 16, 1922, Mr.[1] Wallace S. Dempsey, of New York, called up the conference report on the river and harbor authorization bill.

The report having been read, Mr. Martin B. Madden, of Illinois, made a point of order on Senate amendment numbered 73 extending the jurisdiction of the Mississippi River Commission to the tributaries and outlets of the Mississippi River between Cairo and the Head of the Passes in so far as affected by the flood waters of the Mississippi River.

Mr. William H. Stafford, of Wisconsin, said in debate:

This amendment is virtually in violation of paragraph 2 of Rule XX, which provides in the last clause that 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 unless specific authority to agree to such amendment shall first be given by the House.

Mr. Speaker, the Chair will take cognizance of the fact, I take it, that under existing law the Mississippi River Commission has available at its disposal many millions of dollars for the improvement and protection of the banks of that river. That money to-day is available running into millions—some $6,000,000. It is a continuing appropriation. Now, what is sought by this provision? It seeks to make available the appropriation which is under the control of the Mississippi River Commission to all tributaries and outlets of the Mississippi River, and by this legislative enactment it virtually carries an appropriation to make available to its tributaries appropriations now available exclusively for the Mississippi River. It extends the purpose of the appropriation just the same as if it carried the appropriation, and in effect provides that funds for the Mississippi River improvement shall be utilized and available for tributaries of the Mississippi River. It is in effect an appropriation.

The Speaker[2] ruled:

There is considerable doubt in the mind of the Chair, in the absence of exact information, as to just what the effect of this amendment would be, whether it would really extend to some new purposes the use of the funds already appropriated or not; but even if it would, it seems to the Chair that that does not bring it within the prohibition of the rule that no amendment of the Senate providing for an appropriation upon any bill other than a general appropriation bill shall be agreed to by the House managers without express authority. It does not seem to the Chair that this is an appropriation. If it does allow the use of part of the money already appropriated for a different purpose, yet it does not follow that thereby any extra appropriation is required or any extra expenditure on the part of the Government. If the Committee on Rivers and Harbors can not report such an authorization, it is difficult for the Chair to see how it could be made. The Appropriation Committee would not have the authority to do it. It seems to the Chair that it is strictly within the jurisdiction of this committee, and the Chair overrules the point of order.

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[1] Second session Sixty-seventh Congress, Record, p. 12760.

[2] Frederick H. Gillett, of Massachusets, Speaker.

Chapter CCXXVII.[1]

LIMITATIONS ON GENERAL APPROPRIATIONS.

1579. The House may by limitation on a general appropriation bill provide that an appropriation shall be available contingent on a future event.

An instance in which it was held in order to provide by way of limitation that an appropriation should not become available until a day certain unless a designated bill became law prior to that time.

On June 24, 1922,[2] the House had agreed to the conference report on the War Department appropriation bill and Senate amendments remaining in disagreement were under consideration.

On motion of Mr. Daniel R. Anthony, jr., of Kansas, the House voted to recede from its disagreement to Senate amendment numbered 225, inserting the following provision:

For the continuation of the work on Dam No. 2 on the Tennessee River at Muscle Shoals, Ala., to be immediately available, $7,500,000.

Whereupon Mr. George Huddleston, of Alabama, moved to concur with the following amendment:

Strike out from said Senate amendment No. 225, the following: "To be immediately available" and add after the figures "$7,500,000" the following: "*Provided, however*, This appropriation shall not become available until such time as the Congress shall have taken final action on H.R. 11903, and not then if the subject matter of said bill is enacted into law in a manner as will result in the consummation of contracts for lease and sale of the Government Muscle Shoals property to Henry Ford: *Provided further*, That this provision shall not operate to postpone such availability later than January 1, 1923."

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[1] Supplementary to Chapter XCVIII.

[2] Second session Sixty-seventh Congress, Record, p. 9330.

Mr. William H. Stafford, of Wisconsin, made the point of order that the amendment was legislation and was no germane.

Mr. James R. Mann, of Illinois, submitted:

This amendment provides, first, that the money shall not be available until H.R. 11903 has been enacted, and shall not be then available if a contract is authorized with Henry Ford, but still shall be available after the 1st of January. It contradicts itself in three or four places, but it is only a limitation.

The Speaker[1] said:

It seems to the Chair that this is purely a limitation on the appropriation. It does not make an appropriation available that the present law does not make available. It simply makes it contingent on a future event, and that seems to the Chair is merely a limitation. The Chair overrules the point of order.

1580. An amendment denying the use of an appropriation for a designated purpose is a simple limitation and in order on an appropriation bill.

An instance in which the Chairman recalled a decision sustaining a point of order against an amendment and submitted the amendment for consideration.

On February 4, 1925,[2] the independent offices appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the paragraph providing for an emergency shipping fund was reached.

Mr. Loring M. Black, jr., of New York, offered an amendment as follows:

Insert a new paragraph to read as follows:

"No part of the moneys appropriated or made available by this act shall be expended in any private shipyard."

A point of order made against the amendment by Mr. Otis Schuyler Bland, of Virginia, on the ground that it was legislation was, after brief debate, sustained by the Chairman.[3]

Subsequently, at the conclusion of the reading of the bill, the Chairman addressed the committee and said:

The Chair would like to make a statement. Earlier in the afternoon the gentleman from New York offered an amendment which he had prepared, evidently, in some haste. It was read by the Clerk with even more haste, and I fear the present occupant of the Chair read it more hastily still. At any rate, without actual inspection of the amendment, the Chair ruled hurriedly upon it. While the amendment as presented is not strictly in the form of a limitation, and probably would not serve the purpose for which the gentleman from New York offered it, nevertheless, after an actual examination of the amendment the Chair finds nothing in it that in fact contravenes the rules. Therefore the Chair would like to recall the ruling he made on the subject earlier and again submit the amendment to the committee.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Sixty-eighth Congress, Record, p. 3029.

[3] John Q. Tilson, of Connecticut, Chairman.

1581. An amendment proposing to defer disbursements from an appropriation until a departmental regulation has been enforced does not involve legislation and is in order as a limitation on an appropriation bill.

On March 12, 1908,[1] the post-office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

For inland transportation by railroad routes, $44,000,000.

To this paragraph Mr. Irving P. Wanger, of Pennsylvania, offered the following amendment:

Provider further, That not exceeding six-sevenths of the amount ascertained pursuant to the weighing of the mail on any route in the year 1905 or in the year 1906 as the annual pay on such route for transporting the mail shall be paid out of the moneys hereby appropriated until such ascertainment shall have been readjusted in accordance with order of Postmaster General Meyer No. 412, or until it shall have been finally determined by law that the first recited ascertainments are binding upon the Government for the ensuing fiscal year, notwithstanding any error or wrong in the basis of such ascertainments.

Mr. Jesse Overstreet, of Indiana, made a point of order that the amendment was not a limitation but an affirmative direction providing a change of law.

The Chairman[2] ruled:

The point of order is made that the amendment is obnoxious to the rules of the House because effecting a change of existing law, and the question is whether the amendment is a limitation upon the appropriation merely or whether it, in fact, changes the law. If it be a limitation upon the appropriation, it is clearly within the power of the House, and the House may appropriate $44,000,000 or it may appropriate $22,000,000, or it may make no appropriation at all, for the carrying of the mail. It might appropriate the full sum provided by law, or it might appropriate a proportionate portion of the sum provided by law. Undoubtedly a decision upon the amendment is along very close lines.

Last year, upon the consideration of the post-office appropriation bill, the gentleman from Kansas, Mr. Murdock, offered the following amendment at this same place in the bill:

"*Provided,* That no part of this sum shall be expended in payment for transportation of the mails by railroad routes where the average weight of mails per day has been computed by the use of the divisor less than the whole number of days such mails have been weighed."

The occupant of the chair at that time, the gentleman from New Hampshire, Mr. Currier, being one of the most distinguished parliamentarians in the House, sustained the point of order, and in the course of his decision said:

"The existing law has received a construction by the officers charged with the duty of administering it, and that construction the Chair feels bound to follow."

And then proceeded with the statement of his reasons that, in effect, the amendment when offered by the gentleman from Kansas would change the law and change the method of computing the amount due the railway companies. Undoubtedly that was the correct decision upon the proposition then before the House. To say that no part of that appropriation should be expended except upon a change of construction of the method of computation was, in effect, a change of law, though purporting to be a mere limitation.

But the present amendment is different. Since the ruling of last year the department itself, without a change of law, has made a new construction of the existing law, and the present amendment does not propose to change the law in any respect, but is, as the Chair understands it, a mere

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[1] First session Sixtieth Congress, Record, p. 3231.

[2] James R. Mann, of Illinois, Chairman.

direction to the disbursing officer of the Government that that officer shall not pay to exceed six-sevenths of the amount which otherwise he would pay until a further adjustment is ascertained either by the department or, as could be by law, through the Court of Claims. It being within the power of the House to retain the whole of the amount due to the railroad company, it is clearly within the power of the House to retain any portion of the amount pending an adjudication and decision of the question as to the correct construction of the law as now made by the department. The Chair, therefore, overrules the point of order.

1582. An amendment rendering an appropriation (included in a paragraph proposing legislation) inoperative until Congress should have made certain determinations was held to be in the nature of a limitation.

On January 8, 1915,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

That the Secretary of the Interior be, and he is hereby, authorized to pay to the enrolled members of the Choctaw and Chickasaw Tribes of Indians of Oklahoma entitled under existing law to share in the funds of said tribes, or to their lawful heirs, out of any moneys belonging to said tribes in the United States Treasury or deposited in any bank or held by any official under the jurisdiction of the Secretary of the Interior, not to exceed $200 per capita in the case of the Choctaws, and $100 per capita in the case of the Chickasaws, said payment to be made under such rules and regulations as the Secretary of the Interior may prescribe: *Provided,* That in cases where such enrolled members, or their heirs, are Indians who by reason of their degree of Indian blood belong to the restricted class, the Secretary of the Interior may, in his discretion, withhold such payments and use the same for the benefit of such restricted Indians: *Provided further,* That the money paid to the enrolled members as provided herein shall be exempt from any lien for attorneys' fees or other debt contracted prior to the passage of this act.

To the paragraph Mr. Pat Harrison, of Mississippi, proposed this amendment:

Provided, however, That the provisions of the preceding paragraph of this act with respect to the Choctaw Tribe shall not be operative until Congress shall have determined the rights of the Mississippi Choctaws whose names do not appear upon the final rolls of the Choctaws in Oklahoma.

Mr. John H. Stephens, of Texas, made the point of order that the amendment was not germane and was legislation on an appropriation bill.

The Chairman[2] ruled:

The purpose of the paragraph under consideration is to direct a per capita payment of a given sum to certain tribes of Indians, the payment to be made out of trust funds belonging to the Indians and within the control of the United States Government. It provides for an unconditional per capita payment. The fact that under existing law Congress has the right in an appropriation bill to make a per capita payment to the Indians does not, of course, carry with it the absolute requirement on the part of the Congress to make the appropriation.

In other words, it is entirely within the discretion of the Congress whether or not it will make the appropriation. It may make all or a part of the appropriation, or it may adopt a provision making the appropriation entirely nugatory, provided such provision is germane and does not change existing law. The amendment offered by the gentleman from Mississippi seeks to delay the payment of any per capita payment until Congress shall have determined the rights of the Mississippi Choctaws whose names do not now appear upon the final rolls of the Choctaws in Oklahoma. There is nothing in the amendment seeking to force the Congress or to compel the Congress to determine the rights of the Mississippi Choctaws. It simply provides that a per

[1] Third session Sixty-third Congress, Record, p. 1214.

[2] Joseph W. Byrns, of Tennessee, Chairman.

capita tax shall not be paid until the Congress shall have determined such rights. Now, it seems to the Chair that Congress, having the right to make the appropriation in any amount it deems proper, may also adopt a provision rendering the entire appropriation nugatory. The wisdom of such a course is for the committee and not the Chair to determine. The Chair does not think the amendment open to the objection of being new legislation or that it changes existing law. The Chair has not been furnished with any treaty or statute providing specifically for an annual per capita payment. If there was any such statute, the Chair apprehends that it would not be necessary to have the provision which has been reported as a part of the pending bill. The Chair is of opinion, however, that there is ample authority for Congress to make such annual payment in an appropriation bill if it sees fit to do so. On the other hand, Congress may withhold it, as has been done in the past. The Chair therefore does not think that the amendment changes existing law, nor does it propose new legislation. It is, in the opinion of the Chair, only a condition or limitation on the appropriation, the effect of which and the advisability of which the committee and not the Chair must determine.

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

1583. Provision that an appropriation (carried in paragraph presenting provisions legislative in character) be not available until the Court of Claims passed on certain pending questions was held to be a limitation.

On February 5, 1916,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Charles D. Carter, of Oklahoma, offered this amendment:

That the Secretary of the Interior be, and he is hereby, authorized to pay to the enrolled members of the Choctaw and Chickasaw Tribes of Indians of Oklahoma entitled under existing law to share in the funds of said tribes, or to their lawful heirs, out of any moneys belonging to said tribes in the United States Treasury, or deposited in any bank, or held by any official under the jurisdiction of the Secretary of the Interior, not to exceed $300 per capita in the case of the Choctaws and $200 per capita in the case of the Chickasaws, said payment to be made under such rules and regulations as the Secretary of the Interior may prescribe: *Provided,* That in cases where such enrolled members or their heirs are Indians who by reason of their degree of Indian blood belong to the restricted class, the Secretary of the Interior may, in his discretion, withhold such payments and use the same for the benefit of such restricted Indians: *Provided further,* That no part of the sum appropriated by this paragraph shall be paid to attorneys.

Mr. Pat Harrison, of Mississippi, proposed the following as an amendment to the pending amendment:

Provided, however, That the provisions of this paragraph with respect to the Choctaw Tribe shall not be operative until the Court of Claims shall determine the rights of the Mississippi Choctaws who have been identified as Mississippi Choctaws by the Dawes Commission in its report of March 10, 1899, and commonly known as the McKinnon roll, and also all Mississippi Choctaws who have been identified as Mississippi Choctaws by the Dawes Commission from March 10, 1899, to March 4, 1907, whose names do not appear upon the final roles of the Choctaw Tribe in Oklahoma.

Mr. Carter raised a question of order on the amendment.

The Chairman[2] ruled:

The gentleman from Oklahoma offers an amendment, to which the gentleman from Mississippi proposes an amendment, which has been read at the Clerk's desk. The original amendment provides for the payment of so much per capita of the Indians of the Five Civilized Tribes, the

[1] First session Sixty-fourth Congress, Record, p. 2161.

[2] Martin D. Foster, of Illinois, Chairman.

Choctaws and Chickasaw Tribes of Indians in Oklahoma. The gentleman from Mississippi offers an amendment to this amendment, as follows:

"*Provided, however,* That the provisions of this paragraph with respect to the Choctaw Tribe shall not be operative until the Court of Claims shall determine the rights of the Mississippi Choctaws, who have been identified as Mississippi Choctaws by the Dawes Commission in its report of March 10, 1899, and commonly known as the McKinnon roll, and also all Mississippi Choctaws who have been identified as Mississippi Choctaws by the Dawes Commission from March 10, 1899, to March 4, 1907, whose names do not appear upon the final rolls of the Choctaw Tribe in Oklahoma."

In last year's Indian appropriation bill there was a provision to the effect that—

"The provisions of this paragraph, with respect to the Choctaw Tribe, shall not be operative until Congress shall determine the rights of the Mississippi Choctaws whose names do not appear on the official rolls of the Choctaws in Oklahoma."

As the Chair understands, these funds are held as trust funds by the Government, not paid out annually but only as such times as Congress shall determine to do so. The Chair is not here to pass upon the motives of the gentleman from Mississippi or what he may have in his mind when he offers this amendment. He only judges of the amendment itself as it appears.

This question was argued very fully, as the Chair remembers, in 1915, when the Indian appropriation bill of that year was under consideration. The gentleman from Tennessee, Mr. Byrns, then occupied the chair—a very able man and a man who had served on the Indian Affairs Committee—and he decided that, in his judgment, this did not change existing law.

This does not at this time refer this matter to the Court of Claims. If it did, the Chair would sustain the point of order without any question. The Congress has the right, of course, to make an appropriation according to law, but before that appropriation shall be paid, Congress has the right to put any limitation that it may see fit on it. For instance, it could be provided that it should not be made until it was determined that the moon was made of green cheese; so that the Chair thinks that under these circumstances the amendment is not open to the objection that it is new legislation or that it changes existing law.

There is a volume 4 of Hinds' Precedents, page 636, paragraph 3942, this elucidation:

"3942. While it is not in order to legislate as to qualifications of the recipients of an appropriation, the House may specify that no part of the appropriation shall go to recipients lacking certain qualifications."

The Chair thinks that this does not change existing law, but provides that these provisions of this appropriation, which clearly is an appropriation, shall not be carried out until this matter shall be referred to the Court of Claims, and thinks it is in order, and therefore overrules the point of order.

1584. An amendment prohibiting expenditure of money appropriated for education of aliens for citizenship, until arrearage connected with granting of citizenship was disposed of, was held to be a limitation and in order on an appropriation bill.

On February 3, 1920,[1] the second deficiency appropriation bill was under consideration in the Committee on the Whole House on the state of the Union, when a paragraph providing for the naturalization service was read by the Clerk including the following proviso:

Provided, That no part of this sum shall be expended for or in connection with the training or education of aliens for citizenship until the arrearage of work connected with the granting of citizenship to aliens shall have been disposed of.

Mr. Thomas L. Blanton, of Texas, made the point of order that the proviso was not authorized by law and was legislation.

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[1] Second session Sixty-sixth Congress, Record, p. 2401.

The Chairman ruled: [1]

The Chair believes that the authority cited is sufficient to warrant the language used in the paragraph, and therefore the point of order that the legislation is not authorized by existing law is overruled. The gentleman from Iowa states that this is an appropriation to be used during the balance of the present fiscal year to carry on activities already undertaken by the department, or at least that is the understanding of the Chair, and therefore seems to be in the form of a limitation on account of the fact that before this deficiency appropriation shall be available arrearages of work in connection with the bureau shall be brought up to date, and in the view of the Chair that is a proper limitation, and the Chair overrules the point order.

1585. Provision that no part of an appropriation be used for return of a reserve force to active duty was held to be a limitation.

On March 22, 1920,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

Naval Reserve Force: For expenses of organizing, administering, and recruiting the Naval Reserve Force, for the maintenance and rental of armories, including the pay of necessary janitors, and for wharfage, $50,000.

Mr. Cassius C. Dowell, of Iowa, proposed this amendment:

Provided, That no part of any appropriation contained in this act shall be used for the return or recall of any member of the Naval Reserve Force to active duty for training or any other purpose.

Mr. Lemuel P. Padgett, of Tennessee, made a point of order against the amendment which was overruled by the Chairman [3] without debate.

1586. Provision that no part of an appropriation be used in construction of ships under the cost-plus contract plan is a limitation.

On March 23, 1920,[4] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

Increase of the Navy, construction and machinery: On account of hulls and outfits of vessels and machinery of vessels heretofore authorized, to be available until expended, $48,000,000.

To this Mr. Martin B. Madden, of Illinois, offered as an amendment the following:

Provided, That no part of this appropriation shall be used in payment for any work done on any ships heretofore authorized where such ships are being constructed on the cost-plus contract plan.

Mr. Patrick H. Kelly, of Michigan, made a point of order against the amendment:

The Chairman [3] said:

The Chair overrules the point of order. It is clearly a limitation.

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[1] Joseph Walsh, of Massachusetts,. Chairman.

[2] Second session Sixty-sixth Congress, Record, p. 4712.

[3] James R. Mann, of Illinois, Chairman.

[4] Second session Sixty-sixth Congress, Record, p. 4764.

1587. Provision that no portion of an appropriation be used for pay of reserve officers is a limitation.

A provision that an appropriation be not available for increased pay of an officer under circumstances under which increase in pay was provided by law was held to be legislation and not a limitation.

On February 3, 1921,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

For aviation increase, to officers of the Air Service, $1,000,00: *Provided,* That this appropriation shall not be available for increased pay of any officer unless such officer is attached to an aeroplane unit regularly required to fly: *Provided further,* That no portion of this appropriation shall be used for pay of reserve officers.

Mr. Charles F. Curry, of California, raised a point of order on the first proviso and said:

This language was carefully drawn and inserted as a part of the Army reorganization act. The language of the law is in part, as follows:

"Flying units shall in all cases be commanded by flying officers."

That is done—

"Officers and enlisted men of the Army shall receive an increase of 50 per cent of their pay while on duty"—

Note these words—

"while on duty requiring them to participate regularly and frequently in aerial flights."

That provides that officers regularly and frequently required to participate in aerial flights are entitled to an increase of 50 per cent in their pay. In the bill before the committee the wording is—

"This appropriation shall not be available for increased pay of any officer unless such officer is attached to an aeroplane unit regularly required to fly."

Under the law the officer must be regularly required to fly, and under the bill the aeroplane unit must be regularly required to fly. Neither in law nor in the War Department regulations is there a definition of an aeroplane unit or a flying unit. The word "unit" means one, and a flying unit might be one aeroplane or one balloon. This is an absolute change of law. It is not a limitation. It is legislation on an appropriation bill.

The Chairman[2] said:

The Chair is ready to rule. The gentleman from California makes the point of order to the first proviso to the paragraph providing for an appropriation of $1,000,000 for aviation increase to officers in the Air Service on the ground that it is not a limitation but is in fact a change of law. The Chair is inclined to believe that the proviso is too broad to be properly considered a limitation. In the first place, the term "aeroplane unit" does not appear to be described in law, and no definite information as to what the term means has been brought to the attention of the Chair. Under the language it would seem to the Chair that it might quite widen and extend rather than limit the appropriation. Therefore in its present form the Chair sustains the point of order against the first proviso.

Thereupon Mr. Harry E. Hull, of Iowa, made the point of order against the second proviso.

The Chairman ruled:

The gentleman from Iowa makes the point of order against the second proviso, that it is not a limitation but a change of existing law. It seems clear to the Chair that this proviso is

[1] Third session Sixty-sixth Congress, Record, p. 2521.

[2] John Q. Tilson, of Connecticut, Chairman.

simply a denial of an appropriation, or a provision against the use of it for a certain purpose, and while the Chair is not called upon to pass upon the wisdom or lack of wisdom of this denial, that it is a limitation the Chair is quite clear, and therefore overrules the point of order.

1588. A provision that no portion of an appropriation be used for pay of reserve officers was held to be a limitation.

On April 30, 1921,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

For aviation increase, to officers of the Air Service, $1,000,000: *Provided,* That no portion of this appropriation shall be used for pay of reserve officers.

Mr. Harry E. Hull, of Iowa, said:

Mr. Chairman, I make a point of order on that proviso. It changes the entire law. It does not reduce the amount at all. It simply says you shall make the payment to the Regular Army and not to the reserve officers, and that is not a limitation. The amount is not reduced at all. The money will be paid out just the same; it will be paid out to the officers of the Regular Army.

The Chairman[2] decided:

The Chair will call attention to the fact that Congress could make any limitation it pleases; it could say that the money should not be paid to the Regular officers of the Army. The Chair must overrule the point of order.

1589. Provision that no part of a sum appropriated should be used for soliciting reinstatement of lapsed insurance is a limitation and in order on an appropriation bill.

On January 12, 1921,[3] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and a paragraph had been reached providing for the expenses of the Bureau of War Risk Insurance and including the following proviso:

Provided, That no part of this sum shall be expended for salaries or expenses in soliciting the reinstatement of lapsed insurance.

Mr. Cassius C. Dowell, of Iowa, made a point of order against this proviso.

The Chairman[4] said:

The Chair is of opinion that it is a distinct limitation upon the appropriation, and therefore the Chair overrules the point of order.

1590. A proposal to limit a class authorized to participate in disbursements from an appropriation is a limitation.

A provision that an appropriation be not available for increased pay of officers not attached to an airplane squadron regularly required to fly was held to be in order on an appropriation bill.

On February 3, 1921,[5] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph providing an appropriation for increased pay to officers of the Air Service was read:

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[1] First session Sixty-seventh, Congress, Record, p. 877.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] Third session Sixty-sixth Congress, Record, p. 1319.

[4] Nicholas Longworth, of Ohio, Chairman.

[5] Third session Sixty-sixth Congress, Record, p. 2524.

To this Mr. Daniel R. Anthony, jr., of Kansas, offered an amendment:

Provided, That this appropriation shall not be available for increased pay of any officer who is not attached to an airplane squadron, regularly required to fly. But this proviso shall not apply to any officer temporarily detached from such squadron.

Mr. Charles Pope Caldwell, of New York, made the point of order that the amendment was not a limitation but a change of law.

The Chairman [1] ruled:

The bill makes an appropriation—

"For aviation increase, to officers of the Air Service, $1,000,000."

If left without the proviso this $1,000,000 could be expended for increase of pay of all officers who, under the present law, are qualified to receive it; that is, those who are actual fliers. The proviso as now modified provides that this appropriation shall not be available for increased pay of any officer who is not attached to an airplane squadron regularly required to fly; but this proviso shall not apply to any officer temporarily detached from such squadron.

The appropriation is already limited by existing law to officers who actually fly. This proviso, in addition to that limitation, adds another to the effect that besides being a regular flier the officer must also be attached to an airplane squadron which is required to fly.

In the opinion of the Chair this is a limitation. It is not within the province of the Chair to pass upon the wisdom or lack of wisdom of the provision, but it is the opinion of the Chair that the proviso actually limits the class now authorized to receive this increased pay under the law. Such a limitation to an appropriation is in order under the rules. The Chair therefore overrules the point of order.

1591. A provision that no part of an appropriation be used in paying Government employees a larger wage than that paid for the same work in private industry was held to be a limitation and in order on an appropriation bill.

An amendment proposing a limitation applicable to all appropriations carried in a bill may properly come as a separate paragraph at the end of the bill.

On May 10, 1921,[2] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Following the reading of the last paragraph of the bill, Mr. Robert Luce, of Massachusetts, offered this amendment:

Insert a new section, as follows:

"No part of the money appropriated in this act shall be used for paying any civilian employee of the United States Government an hourly wage or salary larger than that customarily paid by private individuals for corresponding work in the same locality."

Mr. William H. Stafford, of Wisconsin, made the point of order that it was legislation and was not germane to the portion of the bill to which offered.

The Chairman [1] held:

It seems to the Chair that this is purely a limitation, and that it limits all the appropriations carried in this bill. As stated by the gentleman from Massachusetts, if it is properly a limitation, it seems to the Chair that there could be no better place than at the close of the bill, since it is applicable to the entire bill. Therefore the Chair overrules the point of order.

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] First session Sixty-seventh Congress, Record, p. 1279.

1592. A provision that not part of an appropriation be used in operation of a barge line in competition with common carriers was held to be a limitation.

On May 9, 1921,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the paragraph providing for transportation of the Army and its supplies was reached.

To this Mr. John Philip Hill, of Maryland, proposed the following amendment:

Provided, That none of the funds appropriated or made available under this act shall be used for the maintenance or operation by the War Department of any barge line or freight service between Baltimore, Md., and Newbern, N.C., carrying freight as a public carrier in competition with common carriers operated by private enterprise maintaining regular service.

A point of order reserved against the amendment by Mr. Daniel R. Anthony, jr., of Kansas, was made by Mr. Thomas L. Blanton, of Texas.

The Chairman[2] held:

Is it not a limitation? It simply provides that none of the funds herein appropriated shall be available for certain purposes. It seems to the Chair that it limits an appropriation which is being made here. It seems so clear to the Chair that the proposed amendment is purely a limitation that it hardly seems worth while to enlarge upon it.

1593. A provision that no part of an appropriation be used for payment of any employee not appointed through the civil service was held to be a limitation and in order on an appropriation bill.

On December 8, 1922,[3] the Treasury Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When the paragraph providing an appropriation for enforcement of the national prohibition act was reached Mr. George Holden Tinkham, of Massachusetts, proposed this amendment:

Add a new provision, as follows: "*Provided,* That no part of this appropriation shall be used for the payment of the salary of any employee who shall not have been appointed, after competitive examination and certification, by the Civil Service Commission."

Mr. Martin B. Madden, of Illinois, said:

Mr. Chairman, I make the point of order against the amendment upon the grounds that this is not a limitation but is a change of law. Section 38 of the prohibition enforcement law is as follows:

"SEC. 38. The Commissioner of Internal Revenue and the Attorney General of the United States are hereby respectively authorized to appoint and employ such assistants, experts, clerks, and other employees in the District of Columbia or elsewhere, and to purchase such supplies and equipment as they may deem necessary for the enforcement of the provisions of this act, but such assistants, experts, clerks, and other employees, except such executive officers as may be appointed by the commissioner or the Attorney General to have immediate direction of the enforcement of the provisions of this act, and persons authorized to issue permits, and agents and inspectors in the field service, shall be appointed under the rules and regulations prescribed by the civil-service act."

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[1] First session Sixty-seventh Congress, Record, p. 1214.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] Fourth session Sixty-seventh Congress, Record, p. 223.

That is the act under which we are operating. The gentleman from Massachusetts is trying to amend that act, and I submit that it is legislation on an appropriation bill and under the rules of the House it is not in order:

The Chairman [1] decided:

The amendment offered by the gentleman from Massachusetts reads as follows:

"*Provided further,* That no part of this appropriation shall be used for the payment of a salary of any employee who shall not have been appointed after competitive examination and certification by the Civil Service Commission."

The Committee on Appropriations, of course, have no legislative powers except such as are prescribed by the rules, and an amendment can not be offered which proposes legislation unless it comes within the rules. However, there is a very long line of decisions which permits limitations upon appropriations. An amendment may be offered which provides that no part of this appropriation shall be paid to any certain class of employees, and the Chair knows of no reason why an amendment shall be paid to any certain class of employees, and the Chair knows of no reason why an amendment which provides that no part of this appropriation shall be paid to employees unless they have certain qualifications is not a proper limitation. The Chair therefore overrules the point of order.

The amendment having been rejected by the committee and the bill having been reported to the House, ordered to be engrossed, and read a third time, Mr. Tinkham offered the following motion: [2]

Recommit the bill to the Committee on Appropriations with instructions to that committee to report the same back forthwith, with the following proviso:

"*Provided,* That no part of this appropriation shall be used for the payment of the salary of an employee who shall not have been appointed after competitive examination and certification by the Civil Service Commission."

Mr. Thomas L. Blanton, of Texas, made the point of order that the amendment proposed in the motion to recommit changed substantive law and was not in order on an appropriation bill.

The Speaker [3] said:

This is clearly a limitation and the Chair overrules the point of order.

1594. Provision that no part of an appropriation be expended in violation of a specified statute was held to be a limitation and in order on a general appropriation bill.

On February 5, 1924,[4] the Treasury and Post Office Departments appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and a paragraph providing an appropriation for the enforcement of the national prohibition law had been read.

Mr. John Philip Hill, of Maryland, offered an amendment as follows:

Provided, That none of the money here appropriated shall be expended in the commission of acts which are in violation of the national prohibition act, nor for inducing others to violate the provisions of said national prohibition act.

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[1] Everett Sanders, of Indiana, Chairman.

[2] Journal, p. 48; Record, p. 262.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] First session Sixty-eighth Congress, Record, p. 1947.

Mr. William B. Bankhead, of Alabama, having raised a point of order on the amendment, the Chairman [1] said:

The gentleman from Maryland offers the following amendment to the paragraph, which, among other things, appropriates for expenses to enforce provisions of the national prohibition act:

"Provided, That none of the moneys so appropriated shall be expended in the commission of acts which are themselves violations of the national prohibition act, nor for inducing others to violate the provisions of said national prohibition act."

The Chair is of the opinion that that is clearly a limitation and is in order. The Chair overrules the point of order.

1595. The House may by limitation decline to appropriate for one purpose authorized by law while providing for another authorized under the same enactment.

On January 31, 1925,[2] the independent offices appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was read:

For all printing and binding for the Interstate Commerce Commission, including not to exceed $10,000 to print and furnish to the States at cost report-form blanks, $160,000.

Mr. Walter H. Newton, of Minnesota, proposed the following amendment:

Insert a new paragraph to read as follows:

"No part of the appropriation herein made for the Interstate Commerce Commission shall be expended for investigations requested by either House of Congress except those authorized and directed by the concurrent resolution of both Houses."

Mr. Tom Connally, of Texas, made the point of order that the amendment proposed to restrict the discretion of the Commission and was not germane.

The Chairman [3] ruled:

The gentleman from Texas makes the point of order against the amendment offered by the gentleman from Minnesota. First, upon the ground that it is offered at the wrong place. The Chair understands the amendment offered seeks to place a limitation upon all of the appropriations carried in this bill under the heading of the Interstate Commerce Commission. The Chair thinks this is the only proper place for it, the limitation coming as it does after an enumeration of all purposes for which appropriations are made. Therefore the Chair overrules this point of order.

As to the point of order raised by the gentleman from Texas whether or not it is legislation it is sufficient to say that the admission of the gentleman from Texas it is now authorized by law for the commission to investigate either upon the request of either House or upon a concurrent resolution of both Houses. This being admitted, then it must follow that Congress may appropriate for one object authorized by law and refuse to appropriate for another object authorized by law. It seems to the Chair to be the purpose of this amendment to refuse to appropriate for any other purpose now authorized by law except the one designated in the amendment, to wit, an investigation authorized or directed by concurrent resolution of both Houses. Therefore the Chair overrules the second point of order.

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[1] Everett Sanders of Indiana, chairman.

[2] Second session Sixty-eighth Congress, Record, p. 2812.

[3] John Q. Tilson, of Connecticut, Chairman.

1596. An amendment failing to affect appropriations or expenditure of moneys provided in the bill, though offered as a limitation, is not in order on a general appropriation bill.

On April 16, 1908,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

Armor and armament: Toward the armor and armament of domestic manufacture for vessels authorized, $7,000,000.

Mr. Gilbert M. Hitchcock, of Nebraska, proposed the following amendment:

Provided, That no contract for armor plate provided for in this section shall be made at a price in excess of $375 per ton of 2,240 pounds.

A point of order was lodged against the amendment by Mr. George E. Foss, of Illinois, on the ground that it was legislation in the form of a limitation.

The Chairman[2] ruled:

The amendment offered by the gentleman from Nebraska is:

Provided, That no contracts for armor plate provided for this section shall be made at a price in excess of $375 per ton of 2,240 pounds."

The Chair is not sure whether the gentleman means to have the amendment apply to the paragraph under consideration or the section. As the Chair is at present informed the bill is in one section only. The amendment does not purport to be a limitation upon the appropriation, does not purport to be a limitation upon the expenditure of money provided for in the bill. The Chair has examined with care the precedents to which the gentleman referred, having them in full upon the desk, and the Chair thinks that they are not identical, that they are not applicable in this case. The Chair feels constrained to sustain the point of order.

1597. Although a limitation may be in order as applied to appropriations in the pending bill, it may not be extended to appropriations not within the bill.

On February 15, 1919,[3] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When the paragraph providing transportation for the Army was reached Mr. Henry D. Flood, of Virginia, offered this amendment:

Provided, That no part of said appropriation or any other appropriation carried in this bill shall be used for the purchase, maintenance, or operation of any motor-propelled passenger-carrying vehicle in the District of Columbia.

To this amendment Mr. Alben W. Barkley, of Kentucky, proposed to add the following:

Add at the end of the amendment the following: "And from the after the passage of this act no part of any appropriation heretofore made for the maintenance of the Military Establishment shall be used for such purpose."

Mr. James R. Mann, of Illinois, made the point of order that the amendment proposed to the amendment extended to other appropriations than those provided in the pending bill and was therefore not in order.

The Chairman[4] sustained the point of order.

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[1] First session Sixtieth Congress, Record, p. 4832.

[2] James R. Mann, of Illinois, Chairman.

[3] Third session Sixty-fifth Congress, Record, p. 3469.

[4] Edward W. Saunders, of Virginia, Chairman.

1598. On January 6, 1932,[1] the first deficiency appropriation bill was being considered in the Committee of the Whole House on the state of the Union.

The Clerk read:

Provided, that no part of this or any other appropriation for the construction of public buildings shall be used for remodeling and reconstructing the Department of State Building under the authorization therefor contained in the act approved July 3, 1930.

Mr. Fiorello H. LaGuardia, of New York, made the point of order that the item applied to other appropriations than those carried in the pending bill, and therefore was inadmissible as a limitation.

The Chairman[2] sustained the point of order.

1599. On December 13, 1932,[3] the Treasury and Post Office Departments appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a provision for the care and preservation of public buildings under the control of the Treasury Department was reached.

Mr. John J. Cochran, of Missouri, offered the following amendment:

Provided further, That no part of this or any other appropriation shall be used to prepare in a Government office blue prints for public buildings other than where the Supervising Architect has prepared the plans.

Mr. Joseph W. Byrns, of Tennessee, made the point of order that the scope of the amendment extended beyond the present bill.

The Chairman[4] sustained the point of order and said:

The amendment offered by the gentleman from Missouri provides that no part of this or any other appropriation shall be used. The Chair thinks that the point of order made by the chairman of the Committee on Appropriations is well taken in that the amendment seeks to restrict funds already appropriated as well as those carried in the pending bill. The Chair is of opinion that the language in the amendment which affects other appropriations than the pending one constitutes legislation on an appropriation bill and, therefore, is not in order. The Chair sustains the point of order made by the gentleman from Tennessee.

1600. A limitation must apply solely to the pending appropriation.

Paragraphs subject to a point of order and permitted to remain in the bill may be perfected by germane amendments, but not by amendments proposing additional legislation.

On august 12, 1921,[5] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. this paragraph was read:

For expenses of the United States Shipping Board Emergency Fleet Corporation for losses due to the maintenance and operation of ships and for administrative purposes, $48,500,000: *Provided,* That no part of this sum shall be used for the payment of claims other than those resulting from the current maintenance and operation of vessels: *Provided further,* That no part of this sum shall be used to pay the compensation of any attorney, regular or special, for the United States Shipping Board or the United States Shipping Board Emergency Fleet Corpora-

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[1] First session Seventy-second Congress, Record, p. 1394.

[2] William B. Bankhead, of Alabama, Chairman.

[3] Second session Seventy-second Congress, Record, p. 413.

[4] Thomas S. McMillan of South Carolina, Chairman.

[5] First session Sixty-seventh Congress, Record, p. 4947.

tion unless the contract of employment has been approved by the Attorney General of the United States.

Mr. Joseph W. Byrns, of Tennessee, proposed to this an amendment:

After the word "sum" insert "or of any other funds in the United States Shipping Board or Emergency Fleet Corporation"

Mr. William R. Wood, of Indiana, made the point of order that the amendment proposed a limitation upon other appropriations than those carried in the pending bill.

The Chairman [1] ruled:

The general rule, as the Chair understands it, may be found in Hinds' Precedents, section 3927:

"A limitation may be attached only to the money of the appropriation under consideration and may not be made applicable to money to be appropriated in other acts."

The Chair thinks that citation is supported by many precedents. This appropriation bill appropriates the sum of $48,500,000 for the use of the Shipping Board Emergency Fleet Corporation. The amendment seeks to place a limitation in the following words:

"Or of any other funds of the United States Shipping Board Emergency Fleet Corporation."

If this were proper it would place a limitation upon any fund that was in the control of the Shipping Board Emergency Fleet Corporation, it matters not from what source it came or from whence it was derived. The Chair does not think the amendment is in order, and therefore sustains the point of order.

1601. A limitation must apply solely to an appropriation carried in the pending bill and not to the use of property purchased with such appropriation.

On May 14, 1932 [2], the War Department appropriation bill was being considered in the Committee of the Whole House on the state of the union, when a paragraph was read which included the following:

Provided further, That no motor-propelled vehicle procured out of appropriations for the Regular Army that is more than two years old from the date of purchase shall be transferred to the custody and maintenance of any of the civil components of the Regular Army.

Mr. Edward W. Goss, of Connecticut, made the point of order that this provision was legislation and not in order on an appropriation bill.

The Chairman [3] held that while a limitation applying to the appropriation itself was admissible, a limitation proposing to affect the property purchased with such an appropriation was not in order.

Thereupon, Mr. Ross A. Collins, of Mississippi, offered this amendment:

Provided further, That no appropriation contained in this act shall be available for any expense for or incident to the maintenance, operation, or repair of any motor-propelled vehicle procured out of appropriations for the Regular Army or to any of the activities embraced by Title II of this act that is more than two years old from the date of purchase at the time of such transfer.

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[1] William J. Graham, of Illinois, Chairman.

[2] First session Seventy-second Congress, Record, p. 10219.

[3] Fritz G. Lanham, of Texas, Chairman.

Mr. Goss having again objected on the ground that the amendment was legislation, the Chairman overruled the point of order and said:

In the opinion of the Chair the provisions in this amendment are purely a matter of limitation and the Chair overrules the point of order.

1602. Limitations applying to funds other than those provided in the pending bill are not in order.

On January 19, 1923,[1] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

None of the funds of the Panama Railroad Co. or the Panama Railroad Steamship Line shall be used for new construction pertaining to the operation of the Panama Canal.

Mr. Edward E. Denison, of Illinois, made the point of order that the paragraph related to the funds of the Panama Railroad Co. and the Panama Railroad Steamship Line and not to appropriations provided in the pending bill.

The Chairman[2] sustained the point of order.

1603. A limitation may be attached only to the money of the appropriation under consideration, any may not be made applicable to moneys appropriated or to be appropriated in other acts.

A limitation embodying an affirmative authorization is not in order on a general appropriation bill.

On June 4, 1924,[3] the second deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph was read providing for the Internal Revenue Service and including the following:

And provided further, That the sum of $18,415 herein above authorized to be expended for the care, maintenance, and protection of such rented buildings, together with all machinery, tools, equipment, and supplies used for the use in connection therewith, shall be transferred on July 1, 1924, from the Secretary of the Treasury to the superintendent State, War, and Navy Department Buildings.

To the paragraph Mr. Burton L. French, of Idaho, offered this amendment:

Insert a new paragraph, as follows:

"No money appropriated for the enforcement of the prohibition, narcotic, or customs laws shall be expended for the hire of automobiles, boats, or other similar conveyances in any locality whenever automobiles, boats, or similar conveyances are available in the custody of the law, forfeited to the United States under the penal laws, which in the judgment of the Secretary of the Treasury are suitable for use in the enforcement of such laws; and the Secretary of the Treasury is hereby authorized to acquire, upon payment of lien and costs as provided by law, such forfeited automobiles, boats, or other conveyances as in his discretion may be suitable or requisite for such purposes, and to expend such sums from the appropriation made for the enforcement of such laws for the maintenance and operation for official use of such automobiles, boats, or other conveyances, and a report shall be submitted to Congress each year in the Budget of all sums thus expended."

Mr. Carl R. Chindblom, of Illinois, made the point of order that the amendment carried legislation.

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[1] Fourth session Sixty-seventh Congress, Record, p. 2040.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] First session Sixty-eighth Congress, Record, p. 10546.

The Chairman [1] said:

The amendment offered by the gentleman from Idaho reads as follows:

"No money appropriated for the enforcement of the prohibition, narcotic, or customs laws shall be expended for the hire of automobiles, boats, or other similar conveyances in any locality whenever automobiles, boats, or similar conveyances are available in the custody of the law forfeited to the United States under the penal laws, which in the judgment of the Secretary of the Treasury are suitable for use in the enforcement of such laws."

It will be observed that the limitation on the use of these moneys does not relate alone to the moneys appropriated by this act, but to all moneys appropriated by all acts. Therefore it goes beyond the ordinary rule of limitation, which refers only to a limitation on the appropriation carried in the particular bill which is being amended. There might be some question of doubt about it if it was not for the latter part of the amendment, which reads as follows:

"And the Secretary of the Treasury is hereby authorized to acquire upon payment of lien and costs as provided by law such forfeited automobiles, boats, or other conveyances as in his discretion may be suitable or requisite for such purposes, and to expend such sums from the appropriation made for the enforcement of such laws for the maintenance and operation for official use of such automobiles, boats, or other conveyances, and a report shall be submitted to Congress each year in the Budget of all sums thus expended."

This is a legislative provision giving authority to the Secretary of the Treasury to do something which heretofore he has not had authority to do. It is said that it is a retrenchment or a diminution of the amount to be expended, but the Chair can not be sure of that. It might cost more than the Secretary would otherwise expend for the purpose. The point of order must be sustained:

1604. In order to qualify as a limitation, an amendment to an appropriation bill must apply to the appropriation under consideration, and propositions to apply such limitations to funds appropriated in other acts are not in order.

On June 20, 1930, [2] while the second deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, Mr. Ross A. Collins, of Mississippi, offered this amendment:

Provided, That no appropriation for the fiscal years 1930 and 1931 that may be available for the purchase of wooden furniture for Army barracks, quarters, or other buildings shall be expended for such furniture not wholly constructed out of wood grown in the United States.

Mr. William R. Wood, of Indiana, having made a point of order, the Chairman [3] said:

The Chair will state that the amendment as offered related to appropriations for the fiscal years ending 1930 and 1931. That might be elsewhere than in the pending bill. Therefore, the Chair will sustain the point of order.

1605. On December 5, 1930. [4] the Committee of the Whole House on the state of the Union was considering the Treasury and Post Office appropriation bill, when the Clerk read as follows:

SEC. 4. No appropriation available during the fiscal year 1932 shall be used during fiscal year to increase the compensation of any position within the grade to which such position has been allocated under the classification act of 1923, as amended, nor to increase the compensation

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[1] William J. Graham, of Illinois, Chairman.

[2] Second session Seventy-first Congress, Record, p. 11371.

[3] Carl R. Chindblom, of Illinois, Chairman.

[4] Third session Seventy-first Congress, Record, p. 283.

of any position in the field service the pay of which is adjustable to correspond so far as may be practicable to the rates established by such acts, as amended, for the departmental service in the District of Columbia.

Mr. Fiorello H. LaGuardia, of New York, lodged a point of order against the section on the ground that it was applicable to appropriations other than those provided in the pending bill.

The Chairman [1] sustained the point of order and held:

The Chair finds that a similar question was before the Committee of the Whole on June 4, 1924 (Cannon's Precedents, sec. 1603), and on that occasion William J. Graham, of Illinois, Chairman, decided, in substance, this:

"A limitation may be attached only to the money of the appropriation under consideration and may not be made applicable to moneys appropriated or to be appropriated in other acts."

The Chair concurs in the decision made by Chairman Graham in that instance, and thinks the ruling is applicable in this case. The Chair sustains the point of order.

1606. Whenever a purported limitation makes unlawful that which before the lawful or makes lawful that which before was unlawful it changes existing law and is not in order on an appropriation bill.

A proper limitation is negative and in the nature of a veto, and when it assumes affirmative form by direction to an executive in the discharge of his duties under existing law it ceases to be a limitation and becomes legislation.

On February 4, 1925,[2] the independent offices appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

No part of the moneys appropriated or made available by this act for the United States Shipping Board of the United States Shipping Board Emergency Fleet Corporation shall, unless the President shall otherwise direct, be used or expended for the repair or reconditioning of any vessel owned or controlled by the Government if the expense of such repair or reconditioning is in excess of $50,000, until a reasonable opportunity has been given to the available Government navy yards to estimate upon the cost of such repair or reconditioning if performed by such navy yards within the limit of time within which the work is to be done: *Provided,* That this limitation shall only apply to vessels while in the harbors of the United States, and all expenditures in connection with such work are to be considered in estimating the cost.

Mr. Otis Schuyler Bland, of Virginia, Mr. Thomas L. Blanton, of Texas, and Mr. Frederick R. Lehlbach, of New Jersey, made points of order against the paragraph.

After debate, the Chairman [3] ruled:

The paragraph having been reached and read, the gentleman from Texas and the gentleman from New Jersey and the gentleman from Virginia have all made a point of order against it. The question now arises as to whether or not the paragraph in the bill against which the point of order has been made is a proper limitation on the appropriation.

The rules of the House provide that no appropriation shall be carried in a general appropriation bill unless the purposes for which such appropriation is made are authorized by law. In other words, it is provided that a general appropriation bill shall not be made the vehicle for

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[1] Earl C. Michener, of Michigan, Chairman.

[2] Second session Sixty-eighth Congress, Record, p. 3019.

[3] John Q. Tilson, of Connecticut, Chairman.

carrying legislation. It is a well-recognized rule that an appropriation may be made or refused for any authorized purpose. In other words, an appropriation may be made for any, all, or none of the purposes authorized by law, but the appropriation or the refusal to appropriate may not be used as a means of changing existing law. A limitation may be placed upon an appropriation, but it must be a limitation only and must not in its effect change existing law.

The reason for such restriction upon the character of limitations is a substantial one and must not be lost sight of. It has been said that the reason of the law is the life of the law. It is equally true that the reason of our rule as to limitations is the life of the rule.

In order that the Government may function it is necessary that the great supply bills be passed. The Government can not go on if they fail. Long years of experience has demonstrated that legislation on a supply bill may endanger its passage or approval. It is not fair to the other branch of Congress or to the Executive to create an alternative, necessitating either the acceptance of objectionable legislation or the rejection of a supply bill.

Another reason has recently been added why these limitations and all other matters carrying legislation should be even more carefully scrutinized. The Budget system has been established. As a part of the Budget system all the appropriating jurisdiction of this House has been conferred upon one committee. It is a committee that has no other jurisdiction except to appropriate, and the House should be careful not to confer any further jurisdiction on that committee.

In the final analysis the question is: Does the paragraph carry matter the effect of which is to change existing law, to make it unlawful to do that which before was lawful, or to make it lawful to do that which before was unlawful? This prescribes additional duties and new duties for an executive, because the effect of it is to cause him to do things that he is not required by law to do as a part of his duties. The gentleman from Texas, Mr. Connally, in an argument made to you on either this amendment, or one very similar to it, stated the rule as clearly as the Chair is able to state it, or even more so. I cite from the proceedings of January 19, 1923. Mr. Connally said:

"Now, if the Chair please, my understanding of a limitation of an appropriation is as follows: In the face of a point of order congress can only appropriate in an appropriation bill for purposes already authorized by law. The Congress can appropriate for all purposes authorized by law or appropriate for none of the purposes authorized by law. Within those limits Congress can limit an appropriation. Congress can say that no part of an appropriation shall be expended for a part of the purposes which the law authorizes. But a limitation must be absolutely negative. If must be in the nature simply of a veto. It can not direct an executive officer in the discharge of his duties under existing law. Whenever it does, it ceases to be a limitation and becomes legislation in violation of the rule."

In passing upon a question quite similar in principle on January 18, 1923, Sixty-seventh Congress, Fourth session, the present occupant of the Chair cited a number of decisions applicable to this case and will not cite them again now. They embody the principle set out in the argument just cited.

Applying this principle to the paragraph before us we find that no part of the money appropriated, or made available, shall be used for the purposes mentioned if the expense of such repair or conditioning is in excess of $50,000. The executive officer must first determine this fact. Perhaps this would not rise to the dignity of a new duty, but it goes further and says that until a reasonable opportunity has been given. He must determine what is a reasonable opportunity and give this reasonable opportunity to the available Government navy yards. He must find out what navy yards are available, if he is able to find out, and give them a reasonable opportunity to estimate upon the cost of the work to be done. It seems clear to the Chair that this is imposing new duties; that it is legislation on a general appropriation bill and is, therefore, repugnant to our rules. The Chair sustains the point of order.

1607. A proposition in the form of a limitation but in fact proposing affirmative legislation was held not to be in order in an appropriation bill.

On January 18, 1930,[1] during consideration of the Treasury and Post Office appropriation bill, in the Committee of the Whole House on the state of the Union, Mr. John C. Schafer, of Wisconsin, offered this amendment:

Provided further, That nothing contained in this section shall be construed to prevent the continuance of the customary established tests, such as the case examination, to determine the fitness of postal employees for continuance or promotion in the Postal Service.

Mr. William R. Wood, of Indiana, having raised a question of order against the proviso, the Chairman[2] held:

The gentleman from Indiana makes the point of order that the proviso is legislation. It seems to the present occupant of the Chair that unless there is law on the statute book at the present time, which provides for these customary, established tests, there is no question but that the amendment is legislation on an appropriation bill, and the point or order is sustained.

1608. A provision preventing an executive from doing what he otherwise might lawfully do, or requiring him to do what he otherwise is not required to do, is not to be construed as a limitation, and is not in order on an appropriation bill.

Debate on an appeal in the Committee of the Whole is under the five-minute rule.

On February 4, 1925,[3] the independent offices appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the section providing for the United States Shipping Board Emergency Fleet Corporation was reached.

Mr. Harry E. Hull, of Iowa, offered the following amendment:

That no part of the moneys appropriated or made available for the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation shall be used or expended for the construction, purchase, acquirement, repair, or reconditioning of any vessel or part thereof or the machinery or equipment for such vessel from or by any private contractor that at the time of the proposed construction, purchase, acquirement, repair, or reconditioning can be constructed, produced, repaired, or reconditioned within the limit of time within which the work is to be done, in each or any of the navy yards or arsenals of the United States, at an actual expenditure of a sum less than that for which it can be constructed, produced, acquired, repaired, or reconditioned otherwise.

Mr. John McDuffie, of Alabama, Mr. Otis Schuyler Bland, of Virginia, Mr. Thomas L. Blanton, of Texas, and Mr. William R. Wood, of Indiana, raised questions of order on the amendment:

Mr. Blanton said:

I hope the Chair will not base his decision on the question of germaneness. It ought to be based on the question of limitation, because we ought to settle that question; and I call the Chair's attention to a decision by the present occupant of the chair where the Chair quoted former Speaker Cannon on the question of limitations, wherein Mr. Speaker Cannon held that whenever you stop

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[1] Second session Seventy-first Congress, Record, p. 1920.

[2] Bertrand H. Snell, of New York, Chairman.

[3] Second session Sixty-eighth Congress, Record, p. 3024.

an executive from doing something that he could otherwise do by law, or whenever you require an executive to do something which he does not have to do by law, it is not a proper limitation on an appropriation bill.

The Chairman [1] ruled:

The gentleman from Texas has just referred to the decision of Mr. Speaker Cannon, and the Chair has it in mind. The Chair is now satisfied that so far as the place in the bill is concerned the preceding paragraph is only a limitation of the paragraph preceding it, so that in the judgment of the Chair we have not pass beyond the place where it would be proper to offer this amendment, and therefore overrules this point of order.

As to its coming under the Holman rule, it seems to the Chair that any claim of this kind is based on a contingency entirely too remote or too chimerical to determine whether there will be a saving or a loss under such an arrangement. Therefore, the Chair will not decide the point of order on the ground of the Holman rule.

There is nothing remaining but the question of limitation. The celebrated and oft-repeated argument of the gentleman from Illinois, Mr. Mann, has been referred to, where he said that an appropriation might be limited to red-headed men. It is a well-recognized parliamentary principle that an appropriation may be limited by indicating the qualifications of the recipients of the appropriation, so the Chair will not take issue with that principle.

This amendment goes very much farther than the qualifications of the beneficiary. Its terms would require additional duties on the part of executive officers. It is, in effect, legislation, and being offered as an amendment to an appropriation bill, is not in order. The Chair, therefore, sustains the point of order.

Mr. Hull having appealed from the decision of the Chair, Mr. William R. Green, of Iowa, raised a question as to the time permitted for debate on the appeal.

The Chairman said:

The Chair will state that Chairman Crisp many years ago laid down the rule that upon an appeal in Committee of the Whole the debate is under the five-minute rule, and the Chair will follow that ruling of Chairman Crisp.

After debate, the question on the appeal being submitted to the committee was decided in the affirmative, yeas 93, noes 64. So the decision of the Chair was sustained.

1609. Conflicting decisions on amendments denying use of appropriations for payment of officers engaged in supervising stop-watch operations in Government plants.

The admissibility of amendments forbidding payment of salaries to officials while engaged in discharge of specified duties authorized by law is not conclusively established.

Provisions that no part of an appropriation be available for payment of cash reward in addition to wages have been variously incorporated in general appropriation bills without objection, ruled out on points of order, and held to be admissible as limitations.

Decisions on the "stop-watch" or "Taylor system" and "bonus" or "premium" provisions proposed on general appropriation bills.

On January 22, 1915,[2] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The reading of

[1] John Q. Tilson, of Connecticut, Chairman.

[2] Third session Sixty-third Congress, Record, p. 2133.

the bill having been concluded, Mr. Fred S. Deitrick, of Massachusetts, offered the following amendment:

Provided, That no part of the appropriations made in this bill shall be available for the salary or pay of any officer, manager, superintendent foreman, or other person having charge of the work of any employee of the United States Government while making or causing to be made with a stop watch or other time-measuring device, a time study of any job of any such employee between the staring and the completion thereof, or of the movements of any such employee while engaged upon such work; nor shall any part of the appropriations made in this bill be available to pay any premium or bonus or cash reward to any employee in addition to his regular wages, except for suggestions resulting in improvements or economy in the operation of any Government plant; and no claim for services performed by any person while violating this proviso shall be allowed.

Mr. James Hay, of Virginia, raised a point of order on the amendment.

In discussion the point of order, Mr. James R. Mann, of Illinois, said:

Does my colleague recall the very prominent case of the limitation that was put on the bill making appropriations for National soldiers' homes and State soldiers' homes, that no part of the appropriation would be expended in the homes for the maintenance of the canteen?

As I heard the amendment read, if I got it rightly, it does not require anybody to do anything. But only requires that the appropriation shall not be made if something is done. It does not require positive action. It is not a change of law. It only says that the appropriation shall not be available if they do something which they now have the privilege of not doing. We do not have to make an appropriation in order to give a bonus. As I caught the reading, it excepts the provision we passed in a special act here a few years ago to encourage suggestions. I thought the exception covered that, so we would not change the law in that respect.

Thereupon Mr. Hay withdrew the point of order.

1610. On June 1, 1916,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

Provided, That no part of the appropriations made in this act shall be available for the salary or pay of any officer, manager, superintendent, foreman, or other person having charge of the work of any employee of the United States Government while making or causing to be made with a stop watch or other time-measuring device a time study of any job of any such employee between the staring and completion thereof, or of the movements of any such employee while engaged upon such work; nor shall any part of the appropriations made in this act be available to pay any premium or bonus or cash reward to any employee in addition to his regular wages except for suggestions resulting in improvements or economy in the operation of any Government plant.

No point of order being raised against the paragraph, it remained in the bill.

The same amendment was subsequently offered in the same session by Mr. Clyde H. Tavenner, of Illinois, to the Army appropriation bill, the sundry civil appropriation bill, and the fortifications appropriation bill, and was incorporated in each bill.

1611. On May 31, 1918,[2] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. At the end of the bill Mr. George R. Lunn, of New York, offered the following amendment:

Provided, That no part of the appropriations in this act shall be available for salary or pay of any officer, manager, superintendent, foreman, or any other person having charge of the work

[1] First session Sixty-fourth Congress, Record, p. 9120.

[2] Second session Sixty-fifth Congress, Record, p. 7270.

of any employee of the United States Government while making or causing to be made with a stop watch or other time-saving device a time study of any such employee between the starting and completing thereof, or of the movements of any such employee while engaged upon such work; nor shall any part of the appropriations made in this act be available to pay any premiums or bonuses or cash rewards to any employee in addition to his regular wages except for suggestions resulting in improvements or economy in the operation of any Government plant.

Mr. Hubert S. Dent, jr., of Alabama, having raised a question of order on the amendment, Mr. Lunn called attention to the fact that the same amendment had been included in every naval appropriation bill since 1915.

The Chairman [1] said:

The Chair is necessarily bound by precedent, and the precedent, and the precedent just quoted is binding. The Chair overrules the point of order.

1612. On February 18, 1919,[2] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

That no part of the appropriations in this act shall be available for the salary or pay of any officer, manager, superintendent, foreman, or other person having charge of the work of any employee of the United States Government while making or causing to be made with a stop watch, or other time-measuring device, a time study of any such employee between the starting and completing thereof, or of the movements of any such employee while engaged upon such work; nor shall any part of the appropriations made in this act be available to pay any premiums or bonus or cash reward to any employee in addition to his regular wages, except for suggestions resulting in improvements or economy in the operation of any Government plant.

Mr. Richard Wayne Parker, of New Jersey, raised a question of order on the paragraph.

The Chairman [3] overruled the point of order without debate.

1613. On March 23, 1920,[4] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union.

The last paragraph of the bill having been read, Mr. Harry E. Hull, of Iowa, offered this amendment:

That no part of the appropriations made in this act shall be available for the salary or pay of any officer, manager, superintendent, foreman, or other person having charge of the work of any employee of the United States Government while making or causing to be made with a stop watch, or other time-measuring device, a time study of any job of any such employee between the starting and completion thereof or of the movements of any such employee while engaged upon such work; nor shall any part of the appropriations made in this act be available to pay any premium or bonus or cash reward to any employee, in addition to his regular wages, except for suggestions resulting in improvements or economy in the operation of any Government plant; and that no part of the moneys appropriated in each or any section of this act shall be used or expended for the purchase or acquirement of any article or articles that, at the time of the proposed acquirement, can be manufactured or produced in each or any of the Government navy yards of the United States, when time and facilities permit, for a sum less than it can be purchased or acquired otherwise.

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[1] Finis J. Garrett, of Tennessee, Chairman.

[2] Third session Sixty-fifth Congress, Record, p. 3730.

[3] Edward W. Saunders, of Virginia, Chairman.

[4] Second session Sixty-sixth Congress, Record, p. 4767.

Mr. Bertrand H. Snell, of New York, made a point of order against the amendment.

After brief debate, the Chairman [1] overruled the point of order.

1614. On February 5, 1921,[2] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

No part of the moneys appropriated in this act shall be used or expended for the purchase or acquirement of any article or articles that at the time of the proposed acquirement can be manufactured or produced in each or any of the Government arsenals of the United States for a sum less than it can be purchased or procured otherwise.

To this Mr. Harry E. Hull, of Iowa, offered the following as an amendment:

After the word "otherwise" insert "that no part of the appropriations made in this act shall be available for the salary or pay of any officer, manager, superintendent, foreman, or other person having charge of the work of any employee of the United States Government while making or causing to be made with a stop watch or other time-measuring device a time study of any job of any such employee between the starting and completion thereof, or of the movements of any such employee, while engaged upon such work. Nor shall any part of the appropriations made in this act be available to pay any premium or bonus or cash reward to any employee in addition to his regular wages, except for suggestions resulting in improvements or economy in the operation of any Government plant."

Mr. Thomas L. Blanton, of Texas, made the point of order that the amendment was legislation on an appropriation bill.

This Chairman [3] held:

Regardless of what the present occupant of the chair may think of the wisdom of this amendment, it is his duty as Chairman of the Committee of the Whole House on the state of the Union to rule in accordance with the rules of the House and the best precedents made in accord with the rules of the House. This identical amendment has been offered numerous times and ruled upon by numerous able Chairmen who have filled the chair before, and on all occasions, uniformly, so far as the present occupant of the chair now recalls, it has been held that it is a limitation on appropriations made in the act. Therefore the Chair overrules the point of order.

1615. On March 25, 1922,[4] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Expenditures for carrying out the provisions of this act shall not be made in such manner as to prevent the operation of the Government arsenals at their most economical rate of production, except when a special exigency requires the operation of a portion of an arsenal's equipment at a different rate.

Thereupon Mr. Harry E. Hull, of Iowa, offered this amendment:

After the word "rate" insert a new paragraph:

"That no part of the appropriations made in this act shall be available for the salary, or pay of any officer, manager, superintendent, foreman, or other person having charge of the work of any employee of the United States Government while making or causing to be made with a stop watch, or other time-measuring device, a time study of any job or of any such employee between the starting and completion thereof, or the movements of any such employee while engaged

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[1] James R. Mann, of Illinois, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 2071.

[3] John Q. Tilson, of Connecticut, Chairman.

[4] Second session Sixty-seventh Congress, Record, p. 4585.

upon such work, nor shall any part of the appropriations made in this act be available to pay any premium or bonus or cash reward to any employee in addition to his regular wages, except for suggestions resulting in improvements or economy in the operation of any Government plant."

Mr. Daniel R. Anthony, jr., of Kansas, made the point of order that the amendment was not germane and provided legislation.

The Chairman [1] said:

Whatever the opinion of the Chair might have been if this were being brought up for the first time, he feels bound by the precedents and practices in ruling upon this and similar amendments. The Chair overrules the point of order.

1616. On January 18, 1923,[2] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Harry E. Hull, of Iowa, offered the following as a new paragraph:

No part of the appropriations made in this act shall be available for the salary or pay of any officer, manager, superintendent, foreman, or other person having charge of the work of any employee of the United States Government while making or causing to be made with a stop watch or other time-measuring device a time study of any job of any such employee between the starting and completion thereof, or of the movements of any such employee while engaged upon such work; nor shall any part of the appropriations made in this act be available to pay any premiums or bonus or cash reward to any employee in addition to his regular wages, except for suggestions resulting in improvements or economy in the operation of any Government plant.

Mr. Thomas L. Blanton, of Texas, in presenting a point of order against the amendment, said:

Mr. Chairman, it is time that all these recent parliamentary cobwebs should be wiped out and that we should get back to the sane rulings that have been made in this House heretofore. They all run back to the ruling suggested the other day by the distinguished present occupant of the chair, made by Mr. Speaker Cannon, when he said that a limitation which is legislation, which directs affirmative action, which restricts the discretion of an executive, should be ruled out of order on appropriation bills; that the Members of the House have the right to expect when an appropriation bill comes on the floor in charge of a committee that it contains no legislation, and that when it does contain legislation or when legislation is offered from the floor and a point of order is made against it, it should be sustained. I am sure that the Chair is not going to be carried away by what has happened heretofore. Garden-seed amendments have been held in order time and again in the Committee of the Whole in former Congresses, and usually on committee rulings the Speaker of the House follows the decisions of the Chairman of the Committee of the Whole House on the state of the Union. Every year since I have been in Congress the Chairman of the Committee of the Whole has held the garden-seed amendment in order. Yet the other day when that proposition was put directly up to the Speaker of the House he held that it was legislation on an appropriation bill and that it ought not to be permitted. I submit to the Chair that this is not a retrenchment, but a direct additional expenditure that is called for by the amendment; and I submit that the point of order should be sustained.

Mr. Hull said, in opposition to the point of order:

Mr. Chairman, I hardly think it is necessary to argue the point of order very long with the Chairman of the committee. I think he was in the chair a year ago when the same point of order was made against identically the same amendment, and he held it in order. I do not know how anyone can claim it is not in order at the present time, when it has been held in order for eight years. I am sure the present occupant of the chair was in the chair once, and I think he has

[1] Nicholas Longworth, of Ohio, Chairman.

[2] Fourth session Sixty-seventh Congress, Record, p. 1970.

been in the chair several times when this identical amendment has been held in order. It has been held in order by the best parliamentarians in the House.

After further debate, the Chairman [1] ruled:

It is my belief that nothing is ever finally settled until it is settled right. The amendment now offered by the gentleman from Iowa has been ruled upon a number of times during my experience in this House and has been decided both ways. The greater number, however, and all of the later decisions have been one way, holding that it is a limitation. The present occupant of the chair, quite probably, was one of those who, guided entirely by recent precedent, held it to be a limitation. However that may have been, he now believes in the light of a more thorough consideration that such rulings were fundamentally wrong, that it is not a limitation of an appropriation but a positive restriction upon Executive authority, and to the extent of such restriction a change of existing law.

In a decision of Mr. Speaker Cannon, to which I referred a few days ago when a somewhat similar question was pending before the Chair, the effect of the language was held to be decisive and this became the point upon which the decision in that case turned. Hinds' Precedents, section 3935.

What is the effect of the language in the case before us? It is to prohibit the officials in charge of our arsenals and other governmental establishments from doing what they might legally do if this restriction were not in force. For instance, without a restriction of this character they could make a time study with a time-measuring device. If this amendment is added to the bill, as it has been for many years past, then it will not be permissible for these time studies to be made. This is clearly and admittedly the effect and purpose of the language.

It is not the province of the Chair to say whether the time studies ought or ought not to be made. That is a question for Congress to decide by appropriate legislation. It is the duty of the Chair to determine whether this amendment is a proper limitation on an appropriation bill under the rules of the House and to say whether the proposed language simply limits the appropriation or whether as a matter of fact it changes existing law, and is, therefore, legislation. The Chair believes that it is not a mere limitation on a appropriation but in effect is legislation, and therefore sustains the point of order.

Mr. Hull appealed from the decision of the Chair.

Whereupon the Chairman called Mr. Willis C. Hawley, of Oregon, to the chair; and the question being put and tellers being ordered, it was decided in the affirmative, yeas 66, nays 26. So the decision of the Chair stood as the judgment of the committee.

1617. On March 21, 1924,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. James F. Byrnes, of South Carolina, offered the following to appear in the bill as a separate paragraph:

No part of the appropriations made in this act shall be available for the salary or pay of any officer, manager, superintendent, foreman, or other person having charge of the work of any employees of the United States Government while making or causing to be made with a stop watch or other time-measuring device a time study of any job of any such employee between the starting and completion thereof, or of the movements of any such employee while engaged upon such work; nor shall any part of the appropriations made in this act be available to pay any premiums or bonus or cash reward to any employee in addition to his regular wages, except for suggestions resulting in improvements or economy in the operation of any Government plant; and that no part of the moneys appropriated in each or any section of this act shall be used or expended for the purchase or acquirement of any article or articles that, at the time of the proposed acquirement,

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 4680.

can be manufactured or produced in each or any of the Government navy yards of the United States, when time and facilities permit, for a sum less than it can be purchased or acquired otherwise.

Mr. Thomas L. Blanton, of Texas, submitted a point of order on the amendment, citing in support of his contention the decision [1] on a similar point of order rendered on January 18, 1923.

The Chairman [2] said:

The Chair regrets very much that he has to rule on this proposition. As the Chair understands it, the rule is that where a matter of this kind has been decided by a Speaker of the House it sets a ruling precedent. Where it has been decided by a Chairman of the Committee of the Whole it does not set a precedent, and this decision need not be followed by succeeding Chairmen of the committee. This point has never been passed upon by a Speaker of this House. Therefore, we have no guide here. I hope some one in the near future acting as Speaker of the House will determine this matter. Thus far we must be guided simply by the ideas of the one who happens to be acting as presiding officer of the Committee of the Whole. Let me trace the history of this amendment for just a moment. The first time the present occupant of the chair can find that this amendment was ever passed upon was during the Sixty-third Congress, in the third session, when the gentleman from Tennessee, Mr. Garrett, was in the chair.

An amendment was offered exactly like this, a stop-watch provision, and a point of order was made against it. Mr. Mann, of Illinois, an able parliamentarian, was one of those who argued for the amendment, that it was not legislation upon an appropriation bill.

Mr. Hay had made the point of order, and soon afterwards he withdrew his point of order after this discussion, and the matter proceeded to a vote upon the amendment. The Chairman of the committee did not have to rule upon it.

Afterwards, in the Sixty-fifth Congress, second session, the gentleman from Tennessee, Mr. Garrett, was again in the chair, and the same amendment came up. On the occasion the Chair ruled after the point of order had been made:

"The Chair is necessarily bound by the precedents, and the precedent just quoted is binding. The Chair overrules the point of order."

Again, in the Sixty-fifth Congress, in the third session, the gentleman from Virginia, Mr. Saunders, a very able parliamentarian and a man whom all who served with regarded very highly, was required to rule upon this same amendment. The point of order was made by the gentleman from New Jersey, Mr. Parker. Mr. Saunders, without discussing it at all, said:

"The point of order is overruled."

Again, in the Sixty-sixth Congress, at the second session, the same amendment was before the House. The gentleman from Illinois, Mr. Mann, was in the chair. The point of order was made by the gentleman from Texas, Mr. Black. Mr. Mann said:

"The Chair overrules the point of order."

Again, in the Sixty-seventh Congress, at the second session, the gentleman from Ohio, Mr. Longworth, was in the chair, and this same amendment was before the House. The point of order was made against it. Mr. Longworth said:

"The Chair is ready to rule. Whatever the opinion of the Chair may have been if this were being brought up for the first time, he feels bound by the precedents and practices in ruling upon this and similar amendments. The Chair overrules the point of order."

On another occasion in the Sixty-sixth Congress, at the third session, the gentleman from Connecticut, Mr. Tilson, was in the chair. This amendment was before the House. The point of order was made, and this is what the Chairman said:

"This identical amendment has been offered numerous times and ruled upon by numerous able Chairmen who have filled the chair before, and on all occasions uniformly, so far as the present

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[1] See section 1616 of this work.

[2] William J. Graham, of Illinois, Chairman.

occupant of the chair now recalls, it has been held that it is a limitation on the appropriations made in the act. Therefore, the Chair overrules the point of order."

Following that, as suggested by the gentleman from Texas, Mr. Blanton, the gentleman from Connecticut being again in the chair on January 18, 1923, held as the gentleman has suggested.

The Chair has the greatest admiration and respect for the opinion of the gentleman from Connecticut. The Chair knows of no man in this House who stands higher in his estimation than does the gentleman from Connecticut, and in saying what the Chair has to say about this, he does not want to be understood by the committee as reflecting in any way upon the ability or opinion of the gentleman from Connecticut. It is simply a question where Chairmen look at things from a different standpoint. The present occupant of the chair looks at it from the standpoint that this amendment is a proper amendment and a proper limitation. Here is an amendment that provides that no part of this money can be used for the purpose of paying the salaries of officers who make time studies in arsenals and navy yards. Suppose the amendment had read that no part of the funds appropriated by this act shall be used in making time studies?

Does anyone contend that would not be a proper limitation? Congress has the right to say whether it shall be used for that purpose or not. Now go a step further and say that no part shall be used for paying the time of the men who make such time studies. The Chair thinks that is a limitation. Following this long line of authorities by able Chairmen, without any attempt to reflect upon anyone who has ruled differently, the Chair overrules the point of order.

Mr. Blanton having appealed from the decision of the Chair, the committee, on division, sustained the decision by a vote of yeas 79, noes 1.

1618. On March 28, 1924,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

No part of the appropriations made in this act shall be available for the salary or pay of any officer, manager, superintendent, foreman, or other person having charge of the work of any employee of the United States Government while making or causing to be made with a stop watch or other time-measuring device a time study of any job of any such employee between the starting and completion thereof, or of the movements of any such employee while engaged upon such work; nor shall any part of the appropriations made in this act be available to pay any premiums or bonus or cash reward to any employee in addition to his regular wages, except for suggestions resulting in improvements or economy in the operation of any Government plant.

Mr. Thomas L. Blanton, of Texas, made the point of order that the paragraph provided legislation on a general appropriation bill.

Declining to entertain debate, the Chairman[2] said:

There is nothing else in such hopeless conflict in our rules as decisions upon the questions of limitations. This particular paragraph has been the subject of conflicting rulings only quite recently. The Chair is not disposed to add further confusion than exists at the present time. The Chair believes that the decision which he made in the Army appropriation bill a year ago was correct and that it was founded upon good reasoning. Having that ruling in mind and also having in mind the more recent decision made by the distinguished gentleman from Illinois, Mr. Graham, who is a recognized parliamentarian and who goes to the bottom of things when he considers them, the present occupant of the chair, he repeats, is not disposed to complicate the situation further by making a ruling at this time upon this point of order. It is the hope of the present occupant of the chair that the Committee on Rules, or some one else interested in the orderly procedure of the House, will at some future time attempt to draft a rule on the subject, particularly in view of that fact that all of the appropriating power is now vested in one committee.

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[1] First session Sixty-eighth Congress, Record, p. 5173.

[2] John Q. Tilson, of Connecticut, Chairman.

A rule should be drafted which would fix the power of the Appropriations Committee in respect to limitations, defining it as clearly as is possible, and relegate the matter of legislation to where it belongs, viz, the legislative committees of the House.

The Chair declines to pass upon the question at this time as to whether the paragraph is in order or not, and will let the committee decide.

Thereupon Mr. Frederick W. Dallinger, of Massachusetts, in discussing the question thus submitted to the committee, called attention to a decision made on March 21, 1924, holding in order as a limitation a similar amendment offered to the naval appropriation bill.

After further debate, the Chairman said:

In view of the remarks of the gentleman from Massachusetts, the Chair thinks that, in justice to himself, he should make a short statement before submitting the matter to vote. The gentleman from Illinois, Mr. Graham, with his usual thoroughness, looked up all of the decisions in regard to this matter before he made his ruling the other day. The present occupant of the chair did the same thing when he made the decision he rendered a year ago. Both the gentleman from Illinois and the present occupant of the chair found that no decision had ever been rendered on this particular paragraph or amendment, as the case may be, that had had any consideration whatever as a parliamentary proposition so far as appears from the Record.

The question first rose when the gentleman from Tennessee, Mr. Garrett, was in the chair, but before a ruling was made the gentleman who had made the point of order withdrew it so that the gentleman from Tennessee made no ruling on the question. In the next Congress, I think it was, the matter again came up. The same gentleman from Tennessee was in the chair, the point was again raised, and the gentleman from Tennessee, without any argument and without stating his reasoning, said that on the precedents already made he would overrule the point of order.

Another Chairman—I think it was the gentleman from Virginia, Mr. Saunders—simply said that the precedents seemed to be against it, and overruled the point of order. Then the gentleman from Ohio, Mr. Longworth, and later the present occupant of the chair made the same kind of decision, and the question was never considered at any length, so far as the Record shows, until the present occupant of the chair, a year ago, went through the precedents, not only as to this particular paragraph but to others that might be analogous reasoning bear upon it, and ruled that the provision should be ruled out. The other day the gentleman from Illinois, Mr. Graham, in a well-considered decision, ruled the other way. So the matter stands at present. The Chair is going to leave the question with the committee to decide whether this paragraph is in order or not.

The question being taken, on a division there appeared yeas 39, nays 14, and the paragraph was held to be in order.

1619. On January 7, 1927,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the following was read:

No part of the appropriations made in this act shall be available for the salary or pay of any officer, manager, superintendent, foreman, or other person having charge of the work of any employee of the United States Government while making or causing to be made with a stop watch or other time-measuring device a time study of any job of any such employee between the starting and completion thereof, or of the movements of any such employee while engaged upon such work; nor shall any part of the appropriations made in this act be available to pay any premiums or bonus or cash reward to any employee in addition to his regular wages, except for suggestions resulting in improvements or economy in the operation of any Government plant; and that no part of the moneys herein appropriated for the Naval Establishment or herein made available therefor shall be used

[1] Second session Sixty-ninth Congress, Record, p. 1253.

or expended under contracts hereafter made for the repair, purchase, or acquirement, by or from any private contractor, of any naval vessel, machinery, article or articles that at the time of the proposed repair, purchase, or acquirement can be repaired, manufactured, or produced in each or any of the Government navy yards or arsenals of the United States, when time and facilities permit and when, in the judgement of the Secretary of the Navy, such repair, purchase, acquirement, or production would not involve an appreciable increase in cost to the Government.

Mr. Andrew J. Montague, Virginia, having raised a question of order, the Chairman [1] ruled:

This language has frequently been passed upon by Chairmen of the Committee of the Whole. The first part of the paragraph is the non-stop-watch provision which has been held in order by numerous chairman and upon which decisions to the contrary have been overruled by the Committee of the Whole. While the present occupant of the chair had frequently argued on the floor that the stop-watch provision was not in order, he feels it incumbent to follow the precedents thus established, and hold that portion of the paragraph is not out of order. The Chair believes the second portion prohibiting any part of the appropriation in the act to be available to pay any premiums or bonus or cash awards to any employee in addition to his regular wages is out of order, as in the opinion of the Chair it is not merely a denial of the appropriation but includes substantive legislation requiring action on the part of Government officers who are to enforce that portion of the paragraph. With reference to the last part of the paragraph mentioned by the gentleman from Virginia the precedents are conclusive that that portion of the paragraph is out of order, and the Chair without citing any further authority refers to the decision of Chairman Lehlbach, a very comprehensive and clear decision on this point rendered January 25, 1926, on the naval appropriation bill. A portion of paragraph being out of order, it is the duty of the Chair, upon an objection to the entire paragraph, to hold that the whole paragraph is out of order.

Thereupon, Mr. Frederick W. Dallinger, of Massachusetts, offered the following amendment:

No part of the appropriations made in this act shall be available for the salary or pay of any officer, manager, superintendent, foreman, or other person having charge of the work of any employee of the United States Government while making or causing to be made with a stop watch or other time-measuring device a time study of any job of any such employee between the starting and completion thereof, or of the movements of any such employee while engaged upon such work; nor shall any part of the appropriations made in this act be available to pay any premiums or bonus or cash reward to any employee in addition to his regular wages, except for suggestions resulting in improvements or economy in the operation of any Government plant.

Mr. Thomas L. Blanton, of Texas, made a point of order against the amendment which was sustained by the Chairman.

Whereupon, Mr. Dallinger offered this amendment:

No part of the appropriations made in this act shall be available for the salary or pay of any officer, manager, superintendent, foreman, or other person having charge of the work of any employee of the United States Government while making or causing to be made with a stop watch or other time-measuring device a time study of any job of any such employee between the starting and completion thereof, or the movements of any such employee while engaged upon such work.

No question of order being raised, the Chairman put the question on the amendment.

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[1] Carl R. Chindblom, of Illinois, Chairman.

1620. On Febuary 8, 1929,[1] during consideration of the naval appropriation bill, in the Committee of the Whole House on the state of the Union, the Clerk read the following paragraph:

No part of the appropriations made in this act shall be available for the salary or pay of any officer, manager, superintendent, foreman, or other person having charge of the work of any employee of the United States Government while making or causing to be made with a stop watch or other time-measuring device a time study of any job of any such employee between the starting and completion thereof, or of the movements of any such employee while engaged upon such work, nor shall any part of the appropriations made in this act be available to pay any premiums or bonus or cash reward to any employee in addition to his regular wages, except for suggestions resulting in improvements or economy in the operation of any Government plant; and that no part of the moneys appropriated and/or made available for the Naval Establishment for the fiscal year 1930 shall be used or expended under contracts hereafter made for the repair, purchase, or acquirement, by or from any private contractor, of any any naval vessel, machinery, article or articles that at time of the proposed repair, purchase, or acquirement can be repaired, manufactured, or produced in each or any of the Government navy yards or arsenals of the United States, when time and facilities permit, and when, in the judgment of the Secretary of the Navy, such repair, purchase, acquirement, or production would not involve an appreciable increase in cost to the Government.

Mr. John Taber, New York, having raised a point of order, the Chairman[2] ruled:

It is not necessary for the Chair to dwell upon the provision in the first part of the paragraph, inasmuch as the last part of the paragraph is clearly out of order, and therefore, the Chair sustains the point of order to the entire paragraph.

1621. On February 13, 1931,[3] the Committee of the Whole House on the state of the Union was considering the naval appropriation bill, when the Clerk read:

No part of the appropriations made in this act shall be available for the salary or pay of any officer, manager, superintendent, foreman, or other person or persons having charge of the work of any employee of the United States Government while making or causing to be made with a stop watch or other time-measuring device a time study of any job any such employee between the starting and completion thereof, or of the movements of any such employee while engaged upon such work; nor shall any part of the appropriations made in this act be available to pay any premiums or bonus or cash reward to any employee in addition to his regular wages except for suggestions resulting in improvements or economy in the operation of any Government plant.

Mr. John F. Miller, of Washington, offered the following amendment:

And that no part of the moneys herein appropriated for the Naval Establishment or herein made available therefore shall be used or expanded under contracts hereafter made for the repair, purchase, or acquirement, by or from any private contractor, of any naval vessel, machinery, article or articles that at the time of the proposed repair, purchase, or acquirement can be repaired, manufactured, or produced in each or any of the Government navy yards or arsenals of the United States, when time and facilities permit, and when, in the judgment of the Secretary of the Navy, such repair, purchase, acquirement, or production would not involve an appreciable increase in cost to the Government.

Mr. Burton L. French, of Idaho, made the point of order that the amendment proposed legislation by imposing new duties on the Secretary of the Navy.

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[1] Second session Seventieth Congress, Record. p. 3100.

[2] Robert Luce, of Massachusetts, Chairman.

[3] Third session Seventy-first Congress, Record, p. 4859.

The Chairman [1] ruled:

This is not a new question. Limitations in the same languages as this have been offered in the past on Navy appropriation bills. This kind of limitation does not really restrict the use of the money to certain purposes, which is characteristic of limitations, but affirmatively imposes upon the Secretary of the Navy the duty of making a comparative-cost study of manufacture, the building of vessels, the making of repairs, and so forth, as between doing the work in the navy yards and letting it out on private contracts.

Furthermore, it not only imposes upon him the duty to make the cost study but it vests in him the discretion to determine whether or not any increase in cost is appreciable. It is legislation imposing on the Secretary of the Navy a duty not imposed upon him by existing law.

The Chair calls attention to the fact that on this kind of limitation, Representative Luce, Chairman of the Committee of the Whole House on the state of the Union, on February 8, 1929,[2] held such an amendment not to be in order, and on the same day when the Committee rose the question came up on a motion to recommit and the ruling was sustained by Speaker Longworth. Therefore, the Chair sustains the point of order.

1622. Decisions on amendments denying use of appropriations in payment of contractors who had not established the eight-hour day.

On April 8, 1910,[3] the naval appropriation bill was being considered in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

For four submarine torpedo boats in an amount not exceeding in the aggregate $2,000,000, and the sum of $800,000 is hereby appropriated toward said purpose.

To this paragraph Mr. William Hughes, of New Jersey, proposed the following amendment:

Provided, That no part of the money shall be paid to any person, firm, or corporation which has not at the commencement of and during the construction of the work for which this appropriation is made established an eight-hour workday for all employees, laborers, and mechanics, engaged in doing the work for which this money is appropriated. Nothing herein shall affect any existing contract.

Mr. George E. Foss, of Illinois, having raised a question of order against the amendment, Mr. Hughes maintained that it was admissible as a limitation.

The Chairman [4] ruled:

The Chair thinks that, although the amendment is in form a limitation, it is in fact legislation. Therefore the Chair sustains the point of order.

1623. On February 21, 1911,[5] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was read:

Four submarine torpedo boats, in an amount not exceeding in the aggregate $2,000,000, and the sum of $800,000 is hereby appropriated for said purpose.

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[1] Frederick R. Lehlbach, of New Jersey, Chairman.

[2] See sec. 1620, supra.

[3] Second session Sixty-first Congress, Record, p. 4442.

[4] James R. Mann, of Illinois, Chairman.

[5] Third session Sixty-first Congress, Record, p. 3085.

Mr. William Hughes, of New Jersey, proposed the following amendment:

After the word "purpose" strike out the period and insert a semicolon, and add:

"*Provided,* That no part of this appropriation shall be expended for the construction of any boat by any person, firm, or corporation which has not at the time of the commencement and construction of said vessel established an eight-hour workday for all employees, laborers, and mechanics engaged or to be engaged in the construction of the vessels named herein."

Mr. George E. Foss, of Illinois, made a point of order against the amendment, and the Chairman [1] ruled:

When the naval bill was under consideration a year ago, April 8, 1910, this precise question was raised, and under precisely the same circumstances. The amendment is offered to the paragraph relating to the construction of torpedo boats. When that paragraph was read last year this same amendment was then offered to this same paragraph. The Chair will read the amendment offered by the gentleman from New Jersey, and the amendment which he offered last year.

"*Provided,* That no part of the appropriation shall be expended for the construction of any boat by any person, firm, or corporation which has not at the time of the commencement and construction of said vessels established an eight-hour workday for all employees, laborers, and mechanics engaged or to be engaged in the construction of the vessels named herein."

The Chair will now read the amendment offered last year.

"Provided, That no part of the money shall be paid to any person, firm, or corporation which has not at the commencement of and during the construction of the work for which this appropriation is made, established an eight-hour workday for all employees, laborers, and mechanics engaged in doing the work for which this money is appropriated. Nothing herein shall affect any existing contract."

The occupant of the chair at that time was one of the ablest parliamentarians in public life the gentleman from Illinois, Mr. Mann, and at that time he sustained the point of order, and the Chair follows that precedent and sustains the point of order now.

Mr. Hughes having appealed from the decision of the Chair, Mr. James R. Mann, of Illinois, said:

I was in the chair when the ruling was made last year on which the present occupant of the chair relies. I think no one will charge the occupant of the chair at that time with having ruled unfairly upon the proposition relating to eight-hour labor, because the parts of the proposition which he presented which were in order were held to be in order.

What is the proposition? Here is a provision for the construction of four submarine torpedo boats. If that appropriation be made in the way proposed, the Secretary of the Navy may invite proposals for the construction of those vessels, but under existing law he has no authority to say that no one can bid that has not eight-hour labor in his yard. He has no authority under the existing law to limit the bidders to those yards only which employ eight-hour labor.

What is the proposition that the gentleman from New Jersey proposes? Under the guise of a limitation he proposes that the Secretary of the Navy can not spend this money unless the bids be limited to those yards which have eight-hour labor.

What is the result? Either that the money can not be expended or that the Secretary of the Navy construes this as a change of existing law; and when he finds this provision is in the law he can not say that Congress has written in the law that which means nothing, that they had given an appropriation and forbade its expenditure, and hence he must hold that the so-called limitation is a change of law. And whereas now he can not confine bidders to those employing eight-hour labor, if this provision goes in, the law has been changed by legislation, so that he must confine the bidders to those employing eight-hour labor.

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[1] Frank D. Currier, of New Hampshire, Chairman.

The question being put as to whether the decision of the Chair should stand as the judgment of the committee, it was decided in the negative, yeas 96, noes 111. So the decision of the Chair was overruled and the amendment was admitted.

1624. Decisions on admissibility of amendments withholding appropriations from departments requiring less than eight hours work.

On March 14, 1916,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. At the conclusion of the reading of the bill Mr. William P. Borland, of Missouri, offered this amendment as a new paragraph:

No part of any amount herein appropriated shall be used to pay salaries or for personal services in any executive department of the Government in the city of Washington which does not, subject to the provisions and exceptions of section 7 of the legislative, executive, and judicial appropriation act approved March 15, 1898, require eight hours of labor each day.

Mr. Frank W. Mondell, of Wyoming, made the point of order that the amendment was legislation on an appropriation bill.

The Chairman[2] held that the amendment merely proposed a limitation and overruled the point of order.

1625. On December 16, 1916,[3] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The reading of the bill having been concluded, Mr. William P. Borland, of Missouri, proposed the following amendment:

No part of any amount herein appropriated shall be used to pay salaries or for personal services in any executive department of the Government in the city of Washington which does not, subject to the provisions and exceptions of section 7 of the legislative, executive, and judicial appropriation act approved March 15, 1898, require eight hours of labor each day.

Mr. Joseph W. Byrns, of Tennessee, reserved a point of order on the amendment.

After brief debate, Mr. Byrns insisting on the point of order, the Chairman[4] decided that the amendment was in order as a limitation and overruled the point of order.

1626. On December 14, 1917,[5] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. William P. Borland, of Missouri, offered the following amendment as a new paragraph:

No part of any amount herein appropriated shall be used to pay salaries or for the personal services of any department, bureau, or office in the District of Columbia which does not, subject to the provisions and exceptions of section 7 of the legislative, executive, and judicial appropriation act approved March 15, 1898, require eight hours of labor each day.

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[1] First session Sixty-fourth Congress, Record, p. 4094.

[2] Charles R. Crisp, of Georgia, Chairman.

[3] Second session Sixty-fourth Congress, Record, p. 456.

[4] Pat Harrison, of Mississippi, Chairman.

[5] Second session Sixty-fifth Congress Record, p. 309.

Mr. John A. Moon, of Tennessee, made the point of order that the amendment proposed new legislation:

The Chairman [1] said:

Of course, the Chair recognizes that he is an experienced parliamentarian, but the Chair is of the opinion that this amendment is a proper limitation and it does retrench expenses and is in order.

1627. On March 15, 1918,[2] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. William P. Borland, of Missouri, offered this amendment:

No increase herein shall apply to salaries or compensation for personal services in any of the executive departments or independent establishments of the Government or of the District of Columbia, or any bureau or office therein, which does not, subject to the provisions and exceptions of section 7 of the legislative, executive, and judicial appropriation act, approved March 15, 1898, require eight hours of labor each day.

For this amendment, Mr. George R. Lunn, of New York, proposed the following substitute:

No part of any amount herein appropriated shall be used to pay salaries or for personal services in any executive department, bureau, or office of the United States which does not, subject to the provisions and exceptions of section 7 of the legislative, executive, and judicial appropriation act, approved March 15, 1898, require eight hours of labor each day: *Provided,* That the foregoing limitation shall not apply to employees in any bureau or establishment where such employees are not paid time and one-half for overtime.

Mr. Borland made the point of order that the proposed substitute was legislation and not a limitation.

The Chairman [3] said:

The Chair asked for a discussion of the point of order, because he was somewhat in doubt as to the ruling proper to be made. The substitute of the gentleman from New York is offered to the Borland amendment, and it is insisted that it is in order as a limitation. This matter of limitation under the rules of the House is frequently misapprehended, and amendments offered as limitations are not limitations at all, under our precedents. This substitute is presented as a limitation on a limitation, and therefore presumed to be in order. But the Borland amendment is really not a limitation on an appropriation bill. It is in substance legislation on an appropriation bill and would be out of order but for the Holman rule. It is cast in the form of a limitation, but in essence it requires the executive departments to which it relates to maintain an eight-hour system. But since the effect of the Borland amendment is to secure a larger return of work to the Government for the amount of money than would otherwise be paid for a less return of work, it effects a retrenchment of Government expenditures, and is therefore in order. The Borland amendment is something more than a negative prohibition on the use of moneys. In this connection, in order that the nature of a limitation may be more perfectly apprehended, it will be well to cite some of the precedents.

Legislation may not be proposed in the form of a limitation. (Hinds', sec. 3931.)

The House by limitation on a general appropriation bill may provide that no part of an appropriation shall be used for a certain purpose. (Hinds', 3917.)

This is upon the theory that the House may deny an appropriation for a purpose authorized by law. It is not in order to legislate as to the qualifications of the recipients of an appropriation,

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[1] Scott Ferris, of Oklahoma, Chairman.

[2] Second session Sixty-fifth Congress, Record, p. 3503.

[3] Edward W. Saunders, of Virginia, Chairman.

but the House can specify that no part of an appropriation shall go to recipients lacking certain qualifications. (Hinds', sec. 3942.)

A limitation is negative in its nature. (Hinds', sec. 3955; id., sec. 3967.)

The limitation must be upon the appropriation and not an affirmative limitation of official functions. (Hinds', sec. 3957.)

A limitation must not include positive enactments establishing rules for executive officers. (Hinds', sec. 3967.)

The limitation permitted on a general appropriation bill must in effect be a negative prohibition on the use of money, not an affirmative direction to an executive officer. (Hinds', sec. 3974.)

Now the Borland amendment provides that the salaries afforded by the committee amendment shall not be paid to the clerks in any executive department, bureau, or office of the United States which does not require eight hours of labor a day. It does not relate to recipients lacking certain qualifications, but to hours of work required by departments, bureaus, and offices of the United States. Even if the department or bureau has authority under law to work its employees less than eight hours a day, this amendment in substance says to such a department, you must work your employees for as much as eight hours a day in order to enjoy the benefit of the appropriation designed for the payment of employees. The objection that this amendment is in effect legislation is cured as noted above by the fact that the increased return in work secured by requiring the employees to work for eight hours a day, instead of seven and a half as formerly, but at the same compensation, will operate a reduction of expenditures, thereby bringing the amendment within the saving effect of the Holman rule. But what will be the effect of the substitute?

The substitute in substance provides that the Borland amendment shall not apply to any department, bureau or office, where the clerks are working for eight hours, or less than eight hours, with no provision for pay for overtime work. Hence in all such departments, bureaus, and offices the clerks will receive the compensation provided by the committee amendment. The substitute further provides that in those departments, bureaus, and offices where the clerks work eight hours, and are paid time and a half of overtime, the Borland amendment shall apply; that is, that the employees in such bureaus, departments, and offices shall also receive the compensation provided by the committee amendment. It this view the effect of the substitute which is to replace the Borland amendment, how can it be argued that the substitute which is legislation, will reduce expenditures? If it will not operate ex proprio vigore, to reduce expenditures, then it is not in order. The substitute must be considered with reference to its operation, meaning, and effect, as a whole. In the opinion of the Chair, the substitute is legislation. It is not shown that it will effect a retrenchment. Hence it is not within the Holman rule. Further the Chair does not think that the substitute can be regarded as a pure limitation. For the reasons given the point of order to the substitute is sustained.

1628. A provision which under the guise of limitation repeals or modifies existing law is legislation and is not in order on an appropriation bill.

On February 10, 1908,[1] the Indian appropriation bill was under consideration in the committee of the Whole House on the state of the Union, when the Clerk read as follows:

To enable the Commissioner of Indian Affairs to employ practical farmers and practical stockmen, subject only to such examination as to qualifications as the Secretary of the Interior may prescribe, in addition to the agency farmers now employed, at wages not exceeding $75 each per month, to superintend and direct farming and stock raising among such Indians as are making effort for self-support, $125,000: *Provided,* That the amounts paid such farmers and stockmen shall not come within the limit for employees fixed by the act of June 7, 1897: *Provided further,* That the Commissioner of Indian Affairs may employ additional farmers at any Indian school

[1] First session Sixtieth Congress, Record, p. 1779.

at not exceeding $60 per month, subject only to such examination as the Secretary of the Interior may prescribe, said farmers to be in addition to the school farmers now employed.

The clauses "subject only to such examination as to qualifications as the Secretary of the Interior may prescribe" having been ruled out on a point of order, Mr. James S. Sherman, of New York, offered this amendment:

Provided, That no part of the money herein appropriated shall be expended except only for such farmers as shall have been found to be qualified upon examination prescribed by the Secretary of the Labor.

Mr. James R. Mann, of Illinois, made the point of order that existing law provided for such appointments, through civil-service examinations, and this amendment proposed to modify the law under guise of limitation.

The Chairman [1] ruled:

The doctrine of limitation is an interesting and elusive one. Limitations can be imposed by Congress, but still we must be careful that under the form of limitations we do not have the reality of legislation. Where there is the result, then that principle can not be availed of to evade and escape the rule that no legislation shall be contained in an appropriation bill. In this case, as the Chair understands the law to be, there is a stature by which persons who are to be farmers and stockmen, persons provided for by this paragraph, shall be appointed under the rules of the civil services.

The amendment that is offered provides that no part of this money—in other words, none of the employees who, being employed under the terms of this provision, shall be paid—that no money shall be expended unless they shall be found to be qualified upon an examination prescribed by the Secretary of the Interior.

Now, the result would be, as it seems to the Chair, either that no one could be appointed, or, if appointments were made, they must be made in a way not now authorized by law. If this amendment was adopted, if it was put into effect, the necessary result would be, as it seems to the Chair, that these employees, instead of being appointed as the law now requires they should be appointed, would be appointed by a new process, by qualifications that would be regarded as satisfactory to the Secretary of the Interior.

The Chair is unable to see that such a result as that does not amount to a repeal of existing law, and must, therefore, sustain the point or order. The Clerk will read.

1629. An amendment to a general appropriation bill may not under form of limitation change existing law.

A provision conferring additional authority upon an official of the Government is legislation and is not in order on an appropriation bill.

On March 13, 1908,[2] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

Supplies for the city delivery service, including letter boxes, letter-box fasteners, package boxes, posts, furniture, satchels, straps, baskets, time cards, time-card frames, time-recorder supplies, maps, transfer designs, and stencils, $90,000.

To this paragraph Mr. Michael E. Driscoll, of New York, offered as an amendment:

Provided, That no part of this appropriation of $90,000 shall be expended for straps unless letter carriers are permitted to use other straps than those supplied by the Government if they

[1] James D. Perkins, of New York, Chairman.

[2] First session Sixtieth Congress, Record, p. 3282.

prefer them, and buy and pay for them out of their own money and at no expense to the Government.

Mr. Jesse Overstreet, of Indiana, made a point of order against the amendment on the ground that it sought to legislate under the guise of a limitation.

The Chairman [1] ruled:

The question is a fairly close one; but it seems to the Chair that there is this distinction between this case and the one which has been cited concerning the lettering of vehicles. In that instance there was no law requiring that vehicles should be lettered or prohibiting it; but it was in the discretion of the Department having charge of the vehicles. The proposition which in that case was sustained as in order, as a limitation upon the appropriation, did not control that discretion or change the law. It simply withheld the appropriation for vehicles that were not lettered.

The Chair understands that there is a law on the subject, which vests in the Postmaster General the authority to provide the paraphernalia which shall be worn by letter carriers. The Chair thinks that this provision, if enacted into law, would be held, and quite properly be construed, by the Postmaster General, as requiring him to permit the use of straps in the discretion of the carriers themselves, which he is not now required to do. If so, it would not be merely a limitation, but would give him a legal authority, which he does not now possess. The Chair therefore sustains the point of order.

1630. Where a limitation requires the violation of existing law in order to make an appropriation available, it constitutes legislation and is not in order on an appropriation bill.

On April 16, 1908,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. William Hughes, of New Jersey, offered the following amendment as a separate paragraph in the bill:

Provided, That none of the amount herein appropriated for such construction shall be expended where any laborer or mechanic doing any part of the work contemplated by the contract, in the employ of the contractor or subcontractor contracting for any part of said work contemplated, shall be required or permitted to work more than eight hours in any one calendar day upon such work except upon permission granted by the Secretary of the Navy during time of war or a time where war is imminent, or where any great national emergency exists: *And provided further,* That the contractor contracting with the United States shall, in the event of the violation of said covenant as to hours of labor, forfeit to the United States the sum of $5 for each laborer or mechanic for every calendar day for which he shall have been required or permitted to labor more than eight hours upon the work under such contract.

Mr. George E. Foss, of Illinois, made a point of order that the amendment proposed legislation.

The Chairman [3] held:

While the point possibly might be made as to the form of the amendment as a separate paragraph, that question has not been raised.

In form the amendment is somewhat, at least, in the form of a limitation upon the appropriation.

The Chair desires to state a word in reference to the matter of limitations upon appropriations. An amendment very similar to this was ruled in order, as the Chair remembers, two years ago, and ruled out of order one year ago by different chairmen. Under the rules of the

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[1] Marlin E. Olmsted, of Pennsylvania, Chairman.

[2] First session Sixtieth Congress, Record, p. 4815.

[3] James R. Mann, of Illinois, Chairman.

House legislation upon an appropriation bill is not in order, but under the rules of the House, the House, having the power to make or refuse an appropriation, may make an appropriation with a limitation upon it. It was at one time construed, or the tendency was at one time to construe, any amendment offered in the form of a limitation as a mere limitation upon an appropriation. But the committee will readily see that if an amendment in the guise of a limitation be offered in such form that the department must consider the appropriation futile or must consider that the limitation is itself a change of law, the executive officers would undoubtedly hold, should the limitation become law, that Congress had not intended a vain thing, but had meant to make a change of law. In other words, if in order to put the appropriation into effect the executive department must violate an existing law in order to comply with the limitation in the appropriation, then the executive officer has the right to presume that Congress by the limitation intended to change the existing legislation, did not intend to make an appropriation which could not be used, because in violation of the existing law. Now, no one will contend that the pending amendment does not change the existing law. If it be considered effective and binding upon the department so that the pending amendment should be agreed to and become a law, the department would either be required to consider that the appropriation was futile or that the law was changed by the limitation.

Even though it should be a direction to the Secretary of the Navy to enforce the law, that of itself is legislation and subject to the point of order. It matters not what the existing law may be, unless this be an exact repetition of it in quotation, because any change in the law would be a change of existing law, and if this changes in any way the discretion which the Secretary of that Navy has, and he should consider that this limitation bound him to change his discretion, that would be a change of law and hence would be obnoxious to the rule. And the Chair feels bound, both as to the last precedent and as to the theory of the rule itself, to sustain the point of order.

1631. A limitation on the amount of liability which a department may incur under existing law is legislation and not a limitation and is not in order on an appropriation bill.

On March 3, 1910,[1] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

The sum herein appropriated shall also be subject to the following limitation: That the allowance of salaries for the several grades in the various first and second class post offices shall be made, so far as practicable, in proportion to the amount of the business transacted at the several offices.

To this Mr. William H. Stafford, of Wisconsin, proposed the following:

Add after the amendment the following:

"And the appointment and assignment of clerks hereunder shall be so made during the fiscal year as not to involve a greater aggregate expenditure than this sum."

Mr. William Hughes, of New Jersey, presented a point of order on the amendment.

Mr. James R. Mann, in debating the point of order referred to decision cited by Mr. Stafford and said:

Mr. Chairman, just a word. It seems to me that the decisions cited by the gentleman from Wisconsin had no application to the proposition now pending. Those decisions are simply to the effect that Congress may, in making an appropriation, put a limitation upon the uses of an appropriation; and there can be no question about that; no one controverts it. But here is a limitation, not upon an appropriation, but a limitation upon the amount which may be expended by a department under existing law where the law warrants that expenditure. The department

[1] Second session Sixty-first Congress, Record, p. 2687.

has certain discretion. This is a limitation, not on the appropriation—it does not pretend to limit this appropriation at all—but is a limitation upon the amount of liability which the department may incur under existing law.

The Chairman [1] sustained the point of order.

1632. An amendment forbidding expenditure of an appropriation "unless" action contrary to existing law is taken is legislation and is not in order as a limitation.

An amendment may not, under guise of limitation, provide affirmative legislation on an appropriation bill.

On June 4, 1910,[2] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. N. E. Kendall, of Iowa, offered an amendment providing a new section as follows:

No money appropriated herein shall be expended for any work performed under contract unless such contract shall contain a stipulation that no laborer or mechanic doing any part of the same, under the employ of any contractor or subcontractor contracting for the performance of any part of said work, shall be required or permitted to labor more than eight hours on said work in any one calendar day.

Mr. James A. Tawney, of Minnesota, made the point of order that the amendment was not a limitation but a change of existing law.

The Chairman [3] ruled:

The rule is well settled that a limitation on an appropriation is in order. It is also well settled that an amendment in the form of limitation which changes existing law is not in order. The amendment offered by the gentleman from Iowa is that—

"No money appropriated herein shall be expended for any work performed under contract unless such contract shall contain a stipulation that no laborer or mechanic doing any part of the same under the employ of any contractor or subcontractor contracting for the performance of any part of said work shall be required or permitted to labor more than eight hours on said work in any one calendar day."

In the first place, there are various appropriations in this bill for the purpose of carrying out contracts. These contracts under existing law do not and can not contain the stipulation named in the amendment offered by the gentleman from Iowa. And if this amendment should prevail, no portion of the money appropriated under this bill for the carrying out of contracts could be expended for that purpose, because those contracts do not contain the stipulation which the gentleman proposes, unless it be held that this law writes into these contracts the stipulation not contained in the contracts themselves. If it be held that the law writes into the contract a stipulation not now in the contract, that would be clearly not only a change of law, but a change, possibly, of the contract.

Under the existing law, also the department has the authority in reference to making these contracts to leave out such a stipulation as is now provided; and the test, after all, in reference to limitation is whether, when the provision is made under limitation, the officers intrusted with the expenditure of the appropriation may refuse to expend it, or whether they are required to expend it under changed conditions; whether they must construe the limitation as a change of law, and it is perfectly clear that if this amendment prevails that, at least as to all contracts hereafter, the department of the Government expending this appropriation would take this as legislative declaration that this stipulation must be in the contract and not a mere limitation of discretion on their part for the expenditure of the money. For both reasons the Chair sustains the point of order.

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[1] George P. Lawrence, of Massachusetts, Chairman.

[2] Second session Sixty-first Congress, Record, p. 7418.

[3] James R. Mann, of Illinois, Chairman.

1633. Provision that no part of an appropriation be used in payment of salary of any clerk required to work longer than a specified number of hours per month was held to be a limitation, but amendment providing that no part of the appropriation be so expended "unless" such clerks receive additional compensation was ruled out as legislation.

On January 23, 1911,[1] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the paragraph relating to railing to railway postal service was reached.

Mr. James W. Good, of Iowa, offered this amendment:

Provided, That no part thereof shall be expended for paying salaries of any railway postal clerk who is required to perform is excess of 156 hours of service in any four weeks.

Mr. John W. Weeks, of Massachusetts, having raised a point of order on the amendment, the Chairman[2] ruled:

The gentleman from Iowa offered an amendment in the form of a provision, as follows:

"Provided, That no part thereof shall be expended in paying the salary of any railway postal clerk who is required to perform in excess of 156 hours of service in any four weeks."

To this amendment the gentleman from Massachusetts, chairman of the committee, makes the point of order. The Chair is not informed as to any provision of limitation whatever on the number of hours which a railway mail postal clerk is required by law to work. It is claimed that this amendment in fact makes a limitation of those hours by prescribing under what circumstances an employee may or may not be paid. The Chair is unable to conceive of any limitation scarcely which does not to some extent restrict an executive officer in the expenditure of an appropriation and this amendment does not to some extent restrict an executive officer in the expenditure of an appropriation and this amendment does restrict the executive officer in making an expenditure, but it does not require the railway postal clerk to work this number of hours or a less or a greater number. It does not make any requirement upon the executive official except that he shall not expend any part of this appropriation in paying the salary of any railway postal clerk who shall work more than this number of hours. It is clear to the Chair that the amendment is only a limitation on an appropriation and not a change of existing law. Therefore the Chair overrules the point of order.

Whereupon Mr. Eben W. Martin, of South Dakota, proposed the following:

Add to the amendment, "unless such clerks shall be paid additional compensation for the services performed in excess of the said period."

Mr. Weeks again submitted a point of order, and the Chairman said:

The Chair is ready to rule. To the amendment offered by the gentleman from Iowa the gentleman from South Dakota offers the following amendment:

"Unless such clerk shall be paid additional compensation for the service performed in excess of said period."

It is claimed by the gentleman from South Dakota, in opposition to the point of order, that the amendment offered by him only creates an exception, and he cites two other cases in which exceptions were made.

The Chair has examined both those exceptions, and is of the opinion that they are not analogous to the present case, because this exception brings the amendment into direct conflict with the law itself.

Paragraph 2 of Rule XXI, with which we are all familiar, closes with these words:

"Nor shall any provision changing existing law be in order in any general appropriation bill or in any amendment thereto."

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[1] Third session Sixty-first Congress, Record, p. 1321.

[2] John Q. Tilson, of Connecticut, Chairman.

Section 1402 of the Postal Laws and Regulations is the section providing for railway postal clerks and giving the salaries which they shall be paid. To that is added a provision stating specifically that—

'the Postmaster General, in fixing the salaries of clerks in the different classes, may fix different salaries for clerks of the same class, according to the amount of work done and the responsibility incurred by each, but shall not, in any case, allow a higher salary to any clerk of any class than the maximum fixed by this act for the class to which such clerk belongs"—

The salaries for the different classes of clerks being specifically fixed by the statute itself the amendment offered by the gentleman from South Dakota, while in the form of an exception, means, if it means anything at all, that these clerks in case they shall work more than the number of hours specified shall receive additional compensation; and if it provides for additional compensation, then it is in direct conflict with section 1402 of the Postal Laws and Regulations, and consequently in violation of paragraph 2 of Rule XXI, which forbids an amendment changing existing law. The Chair therefore sustains the point of order.

1634. Professed limitations not to become effective "unless" or "until" affirmative action was taken were held to be out of order in an appropriation bill.

An amendment withholding expenditure of appropriations "unless" and "until" certain books were supplied free to the National Library for the Blind was ruled out of order.

On February 15, 1928,[1] during consideration of the Treasury and Post Office Departments appropriation bill, in the Committee of the Whole House on the state of the Union, the Clerk read as follows:

To enable the American Printing House for the Blind more adequately to provide books and apparatus for the education of the blind in accordance with the provisions of the act approved August 4, 1919, $65,000.

Mr. Joseph W. Byrns, of Tennessee, proposed this amendment:

Provided, That the sum herein appropriated shall not be expended unless two copies of each publication printed by the American Printing House for the Blind during the fiscal year 1929 shall be furnished free of charge to the National Library for the Blind, located in Washington, D.C.

Mr. Maurice H. Thatcher, of Kentucky, made the point of order that the amendment proposed legislation.

After extensive debate, the Chairman[2] ruled:

This amendment is clearly a limitation with an affirmative direction. A limitation simply provides that money shall not be spent for a specific purpose. This amendment goes further and says that this money shall not be spent unless or until certain things are done.

One particular decision has been called to the attention of the Chair, rendered in the Committee of the Whole, on February 20, 1926. At that time the following amendment was offered:

"*Provided further,* That not more than one-half of this sum shall be expended unless or until plans and estimates are proposed and approved by said commission for the erection near Sechault, France"—

And so on. In passing upon a point of order made against the amendment the Chairman said:

"From a careful reading it seems to the Chair that the amendment directs the commission to do a specific thing, actually changing the basic law creating the commission, and that the amendment does not restrict in any sense the appropriation."

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[1] First session Seventieth Congress, Record, p. 3063.

[2] Earl C. Michener, of Michigan, Chairman.

Now, the Chair after examining these two amendments finds that in intent they are very similar. It can not be said that this amendment restricts the appropriation alone, but goes further and directs that certain things shall be done. Therefore the Chair sustains the point of order.

1635. To an amendment providing a limitation a substitute amendment providing in addition to the limitation a method of enforcement was held to be legislation and not in order.

On May 24, 1912,[1] the House was considering the joint resolution (H. J. Res. 319) making appropriations to supply deficiencies, and this amendment had offered by Mr. John J. Fitzgerald, of New York:

House of Representatives: For miscellaneous items and expenses of special and select committees, exclusive of salaries and labor, unless specifically ordered by the House of Representatives, $55,000: *Provided,* That no part of this sum shall be paid for telegrams hereafter sent by Representatives, Delegates, and Commissioners in Congress.

For the pending amendment Mr. Richard W. Austin, of Tennessee, proposed the following substitute:

House of Representatives: For miscellaneous items and expenses of special and select committees, exclusive of salaries and labor, unless specifically ordered by the House or Representatives, $55,000: *Provided,* That no part of this sum shall be paid for personal or private telegrams hereafter sent, and that it is made the duty of the Clerk of the House to enforce this provision.

A point of order raised by Mr. Fitzgerald against the substitute was sustained by the Speaker.[2]

1636. Legislation may not be proposed under the form of a limitation. No limitation of expenditure is possible upon a paragraph which does not propose an appropriation.

On February 26, 1916,[3] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Closed-pouch mail service shall be the transportation and handling by railroad employees of mails on trains on which full or apartment railway post-office cars are not authorized, except as hereinbefore provided.

The rates of payment for the services authorized in accordance with this act shall be as follows, namely.

To this Mr. William S. Bennet, of New York, proposed the following amendment:

Provided, however, That no pay shall be made for any car carrying any letter, postal care, circular, newspaper, pamphlet, or publication of any kind containing any advertisement of spirituous, vinous, malted, fermented, or other intoxicating liquors of any kind, or containing a solicitation of an order or orders for said liquors, or any of them, in the mails of the United States when addressed or directed to any person, firm, corporation, or association, or other addressee, at any place or point in any State or Territory of the United States at which it is by the law in force in the State or Territory at that time unlawful to sell, barter, exchange, keep for sale, or otherwise dispose of such liquors, or any of them, or at which point or place it is unlawful by the law then in

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[1] Second session Sixty-second Congress, Record, p. 7107; Journal, p. 1047.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixty-fourth Congress, Record, p. 3214.

force in the State or Territory to advertise or solicit orders for such liquors, or any of them, respectively.

Mr. John A. Moon, of Tennessee, made the point of order that no appropriation was involved and the amendment could not be a limitation.

The Chairman [1] held:

There is no appropriation proposed in the paragraph we are considering now, and for that reason this could not be a limitation and it is not germane to this particular section. The point of order is sustained.

1637. An affirmative direction may not be coupled with a limitation.

On December 14, 1917,[2] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

For village delivery service in towns and villages having post offices of the second or third class, $600,000.

To this paragraph Mr. Harry E. Hull, of Iowa, proposed the following amendment:

After the numerals "$600,000" insert: "No part of this money shall be used in any town, place, or village until a majority of the patrons of the post office in such town, place, or village shall request village delivery, and upon the failure to so request the Post Office Department, shall not exact from said patrons of such office any box rentals in excess of 10 per cent of original cost of construction of such box: *Provided, however,* That a minimum charge of 20 cents per annum may be made."

A point of order by Mr. John A. Moon, of Tennessee, was sustained by the Chairman [3] after brief debate.

1638. A provision that no part of an appropriation be expended for salary in connection with suit to enjoin labor unions from striking was held to be in order as a limitation.

On April 7, 1922,[4] the State and Justice Departments appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When the paragraph appropriating for salaries of personnel in the office of the Attorney General was reached Mr. Edward E. Dension, of Illinois, offered this amendment:

No part of the amounts appropriated in this paragraph shall be expended for the payment of any salary or compensation for legal services in connection with any suit or other proceeding brought in any court to enjoin any officers or members of a labor organization or labor union from suspending or quitting their employment.

Mr. James W. Husted, of New York, having reserved a point of order on the amendment, Mr. James R. Mann, of Illinois, said:

Mr. Chairman, it provides that money appropriated here shall not be paid to those who do certain things. I do not see why it is not germane, and I do not see why it is not in order.

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[1] Henry T. Rainey, of Illinois, Chairman.

[2] Second session Sixty-fifth Congress, Record, p. 315.

[3] Scott Ferris, of Oklahoma, Chairman.

[4] Second session Sixty-seventh Congress, Record, p. 5210.

The Chairman [1] held the amendment to be a limitation and overruled the point of order.

1639. A provision restricting the purpose for which an appropriation was made was held to be legislation, but an amendment providing that no part of the appropriation should be used to achieve the same purpose was admitted as a limitation.

Provision that no part of an appropriation be used to prohibit use of peyote for religious purposes was held to be in order on an appropriation bill.

On January 24, 1924,[2] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

For the suppression of the traffic in intoxicating liquors and deleterious drugs, including peyote, among Indians, $25,000.

Mr. Elmer Thomas, of Oklahoma, proposed this amendment:

After the word "peyote" insert "when not to be used for sacramental purposes in connection with established religious services."

The Chairman [3] having ruled the amendment out of order on a point of order raised by Mr. Thomas L. Blanton, of Texas, Mr. Tom D. McKeown, of Oklahoma, offered the following:

After the word "peyote," insert "*Provided,* That no part of said fund shall be used to prohibit the use of peyote when used by Indians for sacramental or religious purposes in organized churches."

The Chairman held:

The paragraph in the bill provides that the sum to be appropriated may be expended for the suppression of the traffic in deleterious drugs, including peyote. The amendment of the gentleman from Oklahoma now offered in the form of a limitation is to the effect that any portion of this appropriation which without such a limitation might be expended for the suppression of the traffic in peyote to be used for any purpose shall not be expended for the suppression of the traffic in peyote to be used by the Indians for sacramental or religious purposes. The amendment as now offered is a limitation on a appropriation carried in the bill and as such is in order under the rules. The Chair overrules the point of order.

1640. Provision that no appropriation provided in the bill be available for any national park "unless" park concessions were granted to highest bidder therefore was held to be legislation and not in order on an appropriation bill.

In January 29, 1924,[4] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

Appropriations herein made for construction of physical improvements in national parks shall be immediately available.

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[1] Cassius C. Dowell, of Iowa, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 1423.

[3] John Q. Tilson, of Connecticut, Chairman.

[4] First session Sixty-eighth Congress, Record, p. 1656.

Mr. Tom D. McKeown, of Oklahoma, offered this amendment:

After the word "available" insert a new paragraph, as follows:

"No appropriation herein made for national parks shall be available for any national park wherein any person, copartnership, or corporation enjoys any exclusive privilege or concession unless such concession or privilege is granted the highest and best bidder for same after due advertisement of the time and place to receive bids under rules and regulations of the commissioner of parks."

Mr. Louis C. Cramton, of Michigan, made the point of order that the amendment proposed legislation on an appropriation bill.

The Chairman [1] ruled:

The Chair is of the opinion this is not a proper limitation. It is close to the border line, but it does more than limit the appropriation. It goes outside of the realm of limitation and purports to legislate how certain privileges shall be obtained, and also to provide that regulations shall be made by the commissioner of parks, and the Chair sustains the point of order.

1641. A proposal that no part of an appropriation be used for transportation of troops "except" by the cheapest route was construed as legislation.

On March 27, 1928,[2] during consideration of the Naval appropriation bill, in the Committee of the Whole House on the state of the Union, a paragraph making provision for pay of the Marine Corps was read.

Mr. Butler Hare, of South Carolina, offered this amendment:

Provided, That none of such amount shall be used in transporting troops or marines to an from marine barracks and other points except by the cheapest and most direct route.

Mr. Burton L. French, of Idaho, made the point of order that under guise of limitation the amendment sought affirmatively to direct an executive officer.

The Chairman [3] sustained the point of order and said:

If the amendment had stopped at the conclusion of the words—

"*Provided,* That none of such amount shall be used in transporting troops or marines to and from marine barracks and other points"—

it would be clearly a limitation. It would have forbidden the use of any of the money for the transportation of troops, but it does not entirely prohibit the transportation of troops. It says that such prohibition is to apply except when the transportation is by the cheapest and most direct route. That directs the manner in which the troops or marines shall be transported. It seems to the Chair that it is a direction as to the manner in which certain governmental functions are to be performed rather than a limitation or diminution of the amount that is to be expended.

In this connection the Chair calls attention to a case referred to in section 1640 of a new volume of Cannon's Precedents, where the caption reads as follows:

"Provision that no appropriation provided in the bill be available for any national park "unless" park concessions were granted to highest bidder therefor was held to be legislation and not in order on an appropriation bill."

It seems to the Chair that the pending amendment would not only legislate as to the manner in which the Commander in Chief—the President himself—should employ appropriations in this bill for the transportation of marines but also would necessitate accounting by the Comptroller General of the United States, who would have to determine in every case whether the money had been properly expended under this provision, thus producing conditions and further expenditures which, in the opinion of the Chair, render it impossible to say that this amendment would reduce

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[1] Everett Sanders, of Indiana, Chairman.

[2] First session Seventieth Congress, Record, p. 5467.

[3] Carl R. Chindblom, of Illinois, Chairman.

or limit the expenditure of money for the transportation of marines. There are many elements besides distance which enter into the cost of transportation, especially by water. The Chair sustains the point of order.

1642. A provision repealing an existing limit of salary was held to be legislation and not a limitation.

On February 9, 1924,[1] the Treasury and Post Office Departments appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read a paragraph providing an appropriation for suppression of counterfeiting and other crimes, concluding with the following proviso:

Provided further, That no person shall be employed hereunder at a compensation greater than that allowed by law, except not exceeding three persons, who may be paid not exceeding $12 per day.

Mr. Thomas L. Blanton, of Texas, submitted that the limitation proposed by the proviso was so coupled with legislation as to render it subject to a point of order.

The Chairman[2] held

The proviso reads:

"Provided further, That no person shall be employed hereunder at a compensation greater than that allowed by law, except not exceeding three persons who may be paid not exceeding $12 per day."

The point of order is made against the exception. The limitation upon the payments of salaries by law is legislation. Any appropriation which purports to do away with such limitation is legislation, and the point of order is sustained.

1643. Provision that no part of an appropriation be used for construction of vessel at a cost exceeding $900,000 was held to be a limitation.

On January 22, 1909,[3] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Construction and machinery: On account of hulls and outfits of vessels and steam machinery of vessels heretofore authorized, $22,766,823.

To the paragraph Mr. Henry C. Loudenslager, of New Jersey, proposed this amendment:

Provided, That no part of the appropriation shall be used for the payment or construction of any collier the total cost of which shall exceed $900,000.

Mr. John J. Fitzgerald, of New York, made the point of order that the amendment proposed to change existing law, as a greater limit of cost was authorized on some vessels for which the appropriation was made, and this was in effect a change of limit of cost.

The Chairman[4] ruled:

The item in the bill is on account of hulls and outfits of vessels and steam machinery of vessels heretofore authorized, $22,766,823, to which the gentleman from New Jersey offers an

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[1] First session Sixty-eighth Congress, Record, p. 2196.

[2] Everett Sanders, of Indiana, Chairman.

[3] Second session Sixtieth Congress, Record, p. 1321.

[4] James R. Mann, of Illinois, Chairman.

amendment providing that no part of the above appropriation shall be used for the payment or construction of any collier, the total cost of which shall exceed $900,000. It is quite within the province of the committee or of Congress to appropriate or not to appropriate for colliers heretofore authorized, or to provide that they will not appropriate except under certain limitations. The amendment is a pure limitation on the appropriation carried in the bill, and the Chair therefore overrules the point of order.

1644. Provision that no part of an appropriation be used for education of any Indian whose father is a taxpayer in any State or Territory was held to be a limitation.

On February 18, 1910,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read;

For support of Indian day and industrial schools, not otherwise provided for, and for other educational and industrial purposes, $1,420,000.

Mr. John H. Stephens, of Texas, proposed as an amendment:

Provided, That no part of this appropriation shall be used for the purpose of educating the children of any Indian whose father is a taxpayer, citizen, and voter of any State or Territory in the United States.

Mr. Charles H. Burke, of South Dakota, raised a point of order on the amendment.

The Chairman[2] held the amendment to be in the nature of a limitation and overruled the point of order.

1645. Denial of an appropriation for compensation of employees whose appointment lacked final approval was admitted as a limitation.

A provision that no part of an appropriation be used to pay salaries of commissioners whose confirmation was being reconsidered by the Senate was held to be in order as a limitation on an appropriation bill.

On January 27, 1931,[3] during consideration of the independent offices appropriation bill, in the Committee of the Whole House on the state of the Union, the provision for the Federal Power Commission was read.

Mr. Fiorello H. LaGuardia, of New York, offered the following amendment:

Provided, That none of the money herein appropriated shall be used to pay the salary of a commissioner whose confirmation has been or is being reconsidered by the Senate or against whom ouster or removal proceedings have been instituted or authorized.

Mr. John W. Summers, of Washington, made the point of order that the amendment proposed legislation.

The Chairman[4] ruled:

It seems to the Chair that the amendment offered by the gentleman from New York is simply a limitation upon the expenditure. It provides, as the Chair reads it, certain limitations as to the qualifications of commissioners who might be paid a salary out of this appropriation.

The Chair overrules the point of order.

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[1] Second session Sixty-first Congress, Record, p. 2110.

[2] Marlin E. Olmsted, of Pennsylvania, Chairman.

[3] Third session Seventy-first Congress, Record, p. 3320.

[4] Homer Hoch, of Kansas, Chairman.

1646. Provision that no part of an appropriation be used for work on which naval prisoners were employed in preference to registered laborers and mechanics was held to be a limitation.

On April 5, 1910,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

Navy yard, Boston, Mass.: Dredging, $5,000; improvements to water front, $65,000; improvements to yard buildings, $15,000; railroad extension, $10,000; paving and grading, $10,000; in all, navy yard, Boston, $105,000.

To this paragraph Mr. John A. Keliher, of Massachusetts, offered the following amendment:

Provided, That no part of this appropriation shall be expended for any work upon which naval prisoners are employed in preference to laborers and mechanics who are registered for such work in the board of labor employment.

Mr. George E. Foss, of Illinois, having reserved a point of order on the amendment, the Chairman[2] ruled:

The gentleman from Massachusetts proposes an amendment to the paragraph providing for navy yard at Boston, Mass., covering various improvements and the care of the improvements at that point, with a total appropriation of $105,000, and the amendment which he offers provides that no part of this appropriation shall be expended for any work upon which naval prisoners are employed in preference to laborers and mechanics who are registered for such work in the board of labor employ. Undoubtedly the amendment would relate only to the expenditure of the $105,000 carried by the item, and, following the ruling which the Chair made this morning, or yesterday, the Chair overrules the point of order.

1647. An amendment denying the use of an appropriation for the payment of wages except such as are paid in accordance with existing law was held in order as a limitation.

On May 19, 1932,[3] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

For prosecuting work of flood control in accordance with the provisions of the flood control act, approved May 15, 1928,[4] $31,773,775.

Mr. Edward W. Goss, of Connecticut offered an amendment as follows:

Provided, That no part of this appropriation shall be available for payment of wages except such as are determined and paid in accordance with Public Act No. 798, Seventy-first Congress.

Mr. Ross A. Collins, of Mississippi, made the point of order that the amendment was a legislative provision.

The Chairman[5] ruled:

In the opinion of the Chair, the amendment is a negative restriction upon the appropriation and for that reason is a limitation and would be in order. The Chair overrules the point of order.

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[1] Second session Sixty-first Congress, Record, p. 4299.

[2] James R. Mann, of Illinois, Chairman.

[3] First session Seventy-second Congress, Record, p. 10697.

[4] 46 Stat., L., p. 1494.

[5] Fritz G. Lanham, of Texas, Chairman.

1648. Provision that no part of an appropriation be expended in maintenance of more than a single approach to any national cemetery held to be in order as limitation.

On May 26, 1910,[1] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

Repairing roadways to national cemeteries: For repairs to roadways to national cemeteries which have been constructed by special authority of Congress, $12,000: *Provided,* That no railroad shall be permitted upon the right of way which may have been acquired by the United States to a national cemetery, or to encroach upon any roads or walks constructed thereon and maintained by the United States: *Provided further,* That no part of this sum shall be used for repairing any roadway within the corporate limits of any city, town, or village.

Mr. John J. Fitzgerald, of New York, offered an amendment:

No part of any appropriation herein for national cemeteries or the repair of roadways thereto shall be expended in the maintenance of more than a single approach to any national cemetery.

Mr. Martin D. Foster, of Illinois, made the point of order on the amendment.

The Chairman[2] ruled that the amendment merely proposed a limitation on the appropriation in the bill and was in order.

1649. An amendment providing that no part of an appropriation be used for benefit of persons lacking certain qualifications is a limitation.

A provision denying use of an appropriation for education of pupils not residing in the District of Columbia or owning property in the District the taxes on which were in excess of cost of tuition was held to be in order on a general appropriation bill.

On January 23, 1912,[3] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a section making provision for support of public schools in the District of Columbia was reached.

Mr. Albert S. Burleson, of Texas, proposed the following amendment:

No part of any money appropriated in this act for public schools shall be used for tutelage or otherwise in pupils in the public schools in the District of Columbia who do not reside in said District, or who during such tutelage do not own property in or pay taxes levied by the government of the District of Columbia in excess of the estimated cost of their tuition, or whose parents do not reside or are not engaged in public duties therein, or during such tutelage pay taxes levied by the District of Columbia in excess of such estimated cost of tuition, except on the payment of such amount to be fixed by the board of education, with the approval of the Commissioners of said District, as will cover the expense of tuition, cost of textbooks and school supplies used by such pupils, and all payments hereunder shall be paid into the Treasury of the United States, one-half to the credit of the United States and one-half to the credit of the District of Columbia.

Mr. Charles C. Carlin, of Virginia, made the point of order that the amendment, while proposing a limitation, was accompanied by provisions carrying legislation.

Mr. Martin E. Olmsted, in debating the point of order, said:

Mr. Chairman, there is no doubt that Congress may refuse to appropriate at all, and it has been held over and over again that as it may refuse to appropriate at all it may refuse to appro-

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[1] Second session Sixty-first Congress, Record, p. 6933.

[2] James R. Mann, of Illinois, Chairman.

[3] Second session Sixty-second Congress, Record, p. 1237.

priate except for a certain purpose or subject to certain limitations, but those limitations must be limitations pure and simple upon the purpose for which the money may be expended. No one knows better than the distinguished Chairman himself, who is doing excellent work in the chair, that we have a provision in the rule against changing existing law in a general appropriation bill. A limitation, to be a limitation within the rulings, must be purely negative and not attempt any affirmative legislation.

Now, this amendment provides that no part of any money appropriated by the bill shall be used for the tutelage of pupils without certain qualifications. Thus far that is a limitation pure and simple upon the appropriation, and is within the rulings; but in the concluding portion of the amendment we find what seems to be positive, affirmative legislation. It says:

"Except on the payment of such amount, to be fixed by the board of education with approval of the commissioners of said District."

There is a provision which would be construed by those officials as imposing positive duties upon them. And then:

"All payments hereunder shall be paid into the Treasury of the United States, one-half to the credit of the United States and one-half to the credit of the District of Columbia."

These are positive, affirmative directions of law. They change existing law by making law where none at present exists.

I will only take up the time of the Chair to call attention to the precedents referred to in the Manual, on the subject of limitations:

"The limitation may not be applied directly to the official functions of executive officers, but it may restrict executive discretion, so far as this may be done by a simple negative on the use of the appropriation, which does not give affirmative directions."

That is the very last line on the page, and there are numerous precedents cited. "Which does not give affirmative directions."

This amendment appears to me to give affirmative directions.

I am rather in favor of the purpose of the amendment, and my object in rising is merely because of the interest I have in keeping the parliamentary situation straight and because I wish to call these matters to the attention of the Chair.

The Chairman[1] concurred in the views expressed by Mr. Olmsted and sustained the point of order.

Subsequently,[2] Mr. Albert S. Burleson, of Texas, offered the amendment in this form:

No part of any money appropriated in this act for public schools shall be used for the tutelage or otherwise of pupils in the public schools of the District of Columbia who do not reside in said District, or who during such tutelage do not own property in and pay taxes levied by the government of the District of Columbia in excess of the estimated cost of their tuition, or whose parents do not reside or are not engaged in public duties therein.

Mr. Carlin having again raised a question of order on the amendment, the Chairman ruled:

The amendment proposed by the gentleman from Texas is as follows:

"No part of any money appropriated in this act for public schools shall be used for the tutelage or otherwise of pupils in the public schools of the District of Columbia who do not reside in said District, or who during such tutelage do not own property in and pay taxes levied by the government of the District of Columbia in excess of the estimated cost of their tuition, or whose parents do not reside or are not engaged in public duties therein."

To that the gentleman from Virginia makes the point of order. On behalf of the amendment it is insisted that it is a limitation upon the appropriation such as is proper under the rules

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[1] Finis J. Garrett, of Tennessee, Chairman.

[2] Second session Sixty-second Congress, Record, p. 1308.

and precedents. That has been pretty elaborately argued. The Chair will not go into any long analysis of it. There was a provision in the bill as it was reported from the committee, that changed existing law. It was insisted that that was in order under what was called the Holman rule, and it was under the Holman rule, measuring it by the Holman rule, that the occupant of the chair at that time, Mr. Pou, of North Carolina, passed upon the question. The gentleman from North Carolina passed on the question in precisely the same manner as would have the present occupant of the chair if he had been in the chair at that time—that it was not in order under the Holman rule.

Then it was proposed as an amendment by way of limitation, and, as then proposed, it carried affirmative legislation. It provided that "any other nonresident pupil may be admitted to and taught in said public schools on the payment of such amount to be fixed by the board of education, with the approval of the Commissioners of said District, as will cover the expense of tuition and cost of textbooks and school supplies used by such pupils." And provided further, that "all payments hereunder shall be paid into the Treasury of the United States, one-half to the credit of the United States and one-half to the credit of the District of Columbia."

At first the present occupant of the chair overruled the point of order which was made to that amendment. But, upon that order being vacated by unanimous consent, and being argued, the Chair reversed the ruling and sustained the point of order.

The most serious objection to it suggested by the gentleman from Illinois, Mr. Mann, and by the gentleman from Pennsylvania, Mr. Olmsted, was that there were two provisions, one which would be construed by the District officials as imposing positive duties—the language "by the payment of such amount with the approval of the Commissioners of said District," and again, that provision that "payments hereunder shall be paid into the Treasury of the United States, one-half to the credit of the United States and one-half to the credit of the District of Columbia," are positive affirmative directions of law; as stated by the gentleman from Pennsylvania, that they change existing law by making law where none before existed.

Then the attention of the Chair was called to certain expressions in the Manual and Digest, and the Chair reversed himself and sustained the point of order. Now it is presented again in the form in which it has just been read. The decisions on the matter of limitations are not uniform so far as the Chair has been able to find. The has been considerable variation in the line of ruling on the question of limitation, but the Chair has examined in the last two days the precedents with considerable care and arrived at the conclusion that this is in order now as a imitation on the appropriation, and the Chair overrules the point of order.

1650. The restriction of an appropriation to expenditures for the benefit of a class of recipients who have complied with certain requirements is in order as a limitation.

A provision prohibiting the use of an appropriation in paying midshipmen appointed from the Navy who have not served nine months aboard a vessel was admitted on an appropriation bill.

On February 12, 1931,[1] the naval appropriation bill was under consideration in the Committee on the Whole House on the state of the Union.

The Clerk read a paragraph providing for pay of naval personnel and which included the following:

Provided further, That no part of this appropriation shall be available for the pay of any midshipman appointed from enlisted men of the Navy for admission to the Naval Academy in the class entering in the calendar year 1932 who has not served aboard a vessel of the Navy for at least nine months prior to such admission.

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[1] Third session Seventy-first Congress, Record, p. 4747.

Mr. William R. Coyle, of Pennsylvania, made the point of order that the provision was legislation in the guise of a restriction.

The Chairman [1] quoted the proviso and said:

This proviso merely limits the appropriation carried in this act or in this paragraph—it makes no difference; it limits it so that it may not be used to pay a midshipman appointed from the enlisted personnel who has not served nine months on a vessel of the Navy. It is purely a limitation and the point of order is overruled.

1651. A provision that no part of an appropriation should be allotted to a beneficiary failing to comply with certain requirements was held in order as a limitation on an appropriation bill.

An amendment prohibiting the use of any part of an appropriation for the enforcement of prohibition in States which failed to provide an equal amount for the purpose was admitted as a limitation.

On February 23, 1932,[2] the State, Justice, Commerce, and Labor Departments appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. William L. Tierney, of Connecticut, offered the following amendment:

Provided, That no moneys appropriated in this act for the enforcement of the prohibition amendment shall be expended in any State the legislature of which declines to directly appropriate a sum equal to the amount appropriated of the Federal appropriation estimated to be expended in said State for the enforcement of the prohibition amendment and laws applicable thereto.

Mr. Thomas L. Blanton, of Texas, made the point of order that the amendment was legislation.

The Chairman [3] overruled the point of order and said:

The Chair holds that the point of order is not well taken; that the amendment is a limitation. The question is on the amendment offered by the gentleman from Connecticut.

1652. A provision prohibiting expenditure of an appropriation for a certain purpose is merely a limitation and is not subject to a point of order.

Provision that no part of the sum appropriated be used for maintenance of warehouses was held to be a limitation.

On February 17, 1914,[4] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

For the purchase of goods and supplies for the Indian Service, including inspection, pay of necessary employees, and all other expenses connected therewith, including advertising, storage, and transportation of Indian goods and supplies, $300,000: *Provided,* That after July 1, 1914, no part of the sum hereby appropriated shall be used for the maintenance of warehouses in the Indian Service.

Mr. L. C. Dyer, of Missouri, made the point of order that the proviso involved legislation.

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[1] Frederick R. Lehlbach, of New Jersey, Chairman.

[2] First session Seventy-second Congress, Record, p. 4560.

[3] S. D. McReynolds, of Tennessee, Chairman.

[4] Second session Sixty-third Congress, Record, p. 3563.

After debate, the Chairman [1] held that the provision did not constitute a change of existing law but was a simple limitation and therefore in order.

1653. Provision that no part of an appropriation be used for a designated purpose except upon certain contingency was held to be a limitation.

An amendment providing that no part of an appropriation be used for motor mail routes unless petitioned for by patrons was held in order as a limitation on an appropriation bill.

On February 24, 1916,[2] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When the paragraph appropriating for rural free delivery service was reached Mr. Frank Clark, of Florida, offered this amendment:

Provided, That no part of the money herein appropriated for Rural Delivery Service shall be used to cover any expense on any motor vehicle route until a majority of the patrons to be served by such motor vehicle route shall by written petition ask the Post Office Department to establish such motor vehicle route.

Mr. John A. Moon, of Tennessee, made the point of order that the amendment changed existing law and was obnoxious to clause 2 of Rule XXI.

Mr. Edward W. Saunders, of Virginia, argued:

There is a great body of decision on the question of whether amendments are in order as limitations, or out of order as being legislation. Many of these decisions seem to be impossible of reconciliation, so shadowy is the dividing line in many instances between limitation and legislation. In other words a real twilight zone exists in this field.

Under existing law the department is authorized to convert a horse-drawn route into a motor-vehicle route, without any limitation on its authority, but under the amendment this action can not be taken until there is filed in the department a petition signed by a majority of the patrons on the route requesting the change. This is a clear limitation on the authority of the department. It is a condition which must be complied with, before the authority of the department can be set in motion.

The Chairman [3] ruled:

The law on this subject is found in the proviso to the act of March 4, 1915, fixing the pay of rural carriers, page 1227, Statutes at Large, volume 38, and reads as follows:

"*Provided,* That in the discretion of the Postmaster General the pay of carriers who furnish and maintain their own motor vehicles, and who serve routes not less than 50 miles in length, may be fixed at not exceeding $1,800 per annum."

The law does not limit motor-vehicle routes to 50 miles in length; does not require that these routes shall be at least 50 miles in length; but authorizes the Postmaster General to fix the compensation of carriers who operate motor vehicles on routes at least 50 miles in length at a sum not exceeding $1,800 per annum.

The amendment which we are considering, offered by the gentleman from Florida, provides that no part of the money appropriated for rural-delivery service shall be available to cover any expenses upon any motor-vehicle route unless a majority of the patrons to be served on that route have requested by written petition the Post Office Department to establish such motor-vehicle route.

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[1] Joseph W. Byrns, of Tennessee, Chairman.

[2] First session Sixty-fourth Congress, Record, p. 3094.

[3] Henry T. Rainey, of Illinois, Chairman.

Examining the precedents, the Chair finds that on January 11, 1905, while the Army appropriation bill was under consideration in Committee of the Whole, an amendment was proposed to the enacting paragraph—

"That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Army for the year ending June 30, 1906"—to this effect: That no part of the moneys appropriated in the act should be expended for the support and maintenance of more than 30,000 men, including officers and enlisted men. That amendment was offered by Mr. John S. Little, of Arkansas. A point of order was made to this amendment, and, after the matter was debated, the Chairman held that the amendment appeared to be drawn in conformity with a large number of precedents in the form of limitations.

"The amendment," the Chairman held, "discloses the fact that it does not in terms cut down the number of officers or enlisted men in the army, but limits the appropriation in the bill to a certain number of officers and enlisted men, to wit, to 30,000," and the Chair held that the amendment seemed to be in strict conformity with a number of other amendments to which points of order had been overruled, and that this merely placed a limitation on the use of money appropriated in that act, and overruled the point of order.

The Chair has listened to the reading of these numerous other authorities to which attention has been called, and it seems to the Chair that the authorities are in perfect harmony on this question. The amendment offered by the gentleman from Florida is a limitation. It prevents the expenditure of the moneys appropriated for Rural Delivery Service upon motor-vehicle routes which have not been established to compliance with a petition signed by a majority of the patrons of the route. The Chair thinks the amendment is in order and overrules the point of order.

1654. An amendment forbidding payments from appropriation to recipients lacking specified qualifications is a limitation.

Provision that no part of an appropriation be paid for messenger service unless to messenger submitting lowest bid, was held in order on an appropriation bill.

On January 13, 1917,[1] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read this paragraph:

For mail-messenger service, $2,243,000.

Mr. Harry E. Hull, of Iowa, offered the following amendment:

After the figures "$2,243,000" inset "No part of this money shall be paid for any messenger service unless it be to the mail messenger who was the lowest qualified bidder at the time the contract was first called for."

Mr. John A. Moon, of Tennessee, made a point of order on the amendment, and Mr. James R. Mann, of Illinois, said:

I submit, Mr. Chairman, that the amendment is not subject to a point of order. We can make appropriations and even say no part of it can be expended unless to a red-headed man.

That is a pure limitation that is within our power under the rules of the House. We have that authority. We can not require the department to exercise additional authority, or to exercise authority in the way we want it exercised, but we can say that the department can not spend the money unless they do it in the way we say.

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[1] Second session Sixty-fourth Congress, Record, p. 1336.

The Chairman [1] held:

The Chair has read the amendment carefully, and is constrained to reach the conclusion that it is a limitation, and that under the unbroken precedents of the House a mere limitation upon an appropriation is in order.

1655. An amendment denying use of an appropriation to States lacking certain qualifications was held to be a limitation.

On February 24, 1919,[2] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph reappropriating unexpended balances for the use of the Interdepartmental Social Hygiene Board was read:

Miss Jeannette Rankin, of Montana, proposed this amendment:

Provided, That no part of the unexpended balance shall be made available for any State which permits the examination of females suspected of venereal disease to be made by a male physician.

Mr. James F. Byrnes, of South Carolina, having reserved a point of order on the amendment, Mr. James R. Mann, of Illinois, said:

It is a mere limitation upon the expenditure of the money, precisely on all fours with the proposition about the appropriation for the benefit of soldiers' homes controlled by States. That is probably the leading case on the subject where a proposition was made that no portion of the money appropriated for the benefit of soldiers' homes owned by State should be given to the States if they permitted the sale of intoxicating liquor of any kind, including wine, beer, and so forth. Now, here is a provision appropriating the unexpended balance and a limitation upon the unexpended balance. It is clearly a limitation.

Mr. Charles R. Crisp, of Georgia, added:

I think it is clearly a limitation; but if the Chair has his mind made up, I do not care to say anything.

The Chairman [3] ruled:

The Chair thinks that the point made by the gentleman from South Carolina that this is not an appropriation is not well taken. It does reappropriate the balance for the year 1920. So far as the amendment being a limitation, the Chair is justified in overruling the point of order. The Chair overrules the point of order.

1656. Prohibition of use of funds from an appropriation for a purpose authorized by law was held to be a limitation.

A limitation establishing a maximum as to number and salary of employees otherwise without statutory limitation under a lump-sum appropriation was held to be in order on an appropriation bill.

The law creating a governmental agency was held to be sufficient authorization for purchase of periodicals, maps, and books of reference essential to the discharge of its legitimate functions.

A proposition to define and establish the duties of Government employees was held to involve legislation.

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[1] Charles R. Crisp, of Georgia, Chairman.

[2] Third session Sixty-fifth Congress, Record, p. 4163.

[3] Martin D. Foster, of Illinois, Chairman.

The fact that a provision has been carried in appropriation bills or many years does not exempt if from a point of order if otherwise unauthorized.

On January 23, 1992,[1] the independent offices appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Henry Allen Cooper, of Wisconsin, made a point of order against the following paragraph:

For expenses made necessary by the act entitled "An act establishing a Commission of Fine Arts," approved May 17, 1910, including the purchase of periodicals, maps and books of reference, to be disbursed on vouchers approved by the commission by the officer in charge of public buildings and grounds, who shall be the secretary and shall act as the executive officer of said commission, $6,000: *Provided,* That no person shall receive compensation hereunder at a rate exceeding $1,800 per annum and only one person shall be employed at that rate: *Provided further,* That no part of this sum shall be expended for traveling expenses other than those incurred by members of the commission for actual travel only in going to and returning from Washington to attend the meetings of the commission.

Mr. Ben Johnson, of Kentucky, also raised a question of order against provisions in the paragraph.

It was contended in opposition to the points of order that the provisions objected to had been carried in the appropriation bills for many years.

After debate, the Chairman[2] ruled:

The act providing for this commission provides that the traveling expenses of the commission shall be paid to and from the city of Washington. The second proviso, to which the gentleman from Wisconsin makes a point of order, provides:

"That no part of this sum shall be expended for traveling expenses other than those incurred by members of the commission for actual travel only going to and returning from Washington to attend the meetings of the commission."

The Chair thinks that is a limitation on the appropriation and is within the right of the Committee on Appropriations in making up the bill.

The gentleman from Kentucky makes the point of order that maps, books, and so forth, may not be purchased under the general authority creating this commission.

It has been the practice throughout the history of Congress for appropriating committees to provide for books, maps, and such other necessities as the agencies created by the Government might need. The Chair thinks that the authorization for the purchase of these is within the general scope of the authority of the act.

As to the designation of the secretary, that is clearly legislative.

That portion of the provision of the bill which seems to the Chair to go outside of the act is that the secretary shall be the officer in charge of Public Buildings and Grounds. It seems to the Chair that that is an extension of the act.

The Chair overrules the point of order as to the second and third paragraphs and overrules the point of order as to the purchase of books and maps and sustains the point of order as to the designation of the secretary. The language that will go out will be—by the officer in charge of public buildings and grounds who shall be the secretary and shall act as the executive officer of said commission."

1657. A provision that no part of an appropriation be used for payment of troops stationed in certain geographical locations was held to be a limitation and in order on an appropriation bill.

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[1] Second session Sixty-seventh Congress, Record, p. 1598.

[2] Philip P. Campbell, of Kansas, Chairman.

On March 22, 1922,[1] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was read:

No part of the appropriations made herein for pay of the Army shall be used, except in time of emergency, for the payment of troops garrisoned in China or for payment of more than 500 officers and enlisted men on the Continent of Europe; nor shall such appropriations be used, except in time of emergency, for the payment of more than 5,000 enlisted men in the Panama Canal Zone or more than 5,000 enlisted men in the Hawaiian Islands.

Mr. Thomas S. Crago, of Pennsylvania, made the point of order that the paragraph was legislation in the form of a limitation.

In debate, Mr. James R. Mann, of Illinois, said:

Mr. Chairman, the power to do a thing and the exercise of the power are two entirely different things. We could provide in this bill that no part of this money should be paid to anybody in the Army but red-headed men or blue-eyed men. Having the power to make an appropriation, we can put a limitation in as to whom it may be paid to and whom it may not be paid to. That is the appropriation. That does not interfere with the power of the President. He can not maintain any troops unless we appropriate the money for it unless he paid it out of his own pocket. We have the power to say that we will not appropriate a dollar for any purpose. There is no power in the world except our constituency which can reverse our action. Having the power to appropriate, having the power to refuse to appropriate, we can appropriate on conditions with limitations. That is all this is. I question the advisability of exercising the power. That, however, would be a matter for the Congress to determine. I do not see how there can be any question as to the power to put a limitation on the appropriation as far as the rules are concerned.

The Chairman[2] ruled:

The Chair will be very frank in saying that he is so much opposed to this proposition that he has tried to find some way of holding it out of order. But the Chair does not see how that is possible in any way in compliance with the rules of the House.

Congress has the power to limit or decrease executive discretion by withholding an appropriation. It has not the power to affirmatively direct the doing of a particular act, but it has the power, through its control of the purse strings of the Nation to prevent an appropriation being made under certain conditions. There are a number of precedents on this point which are not worth while to cite, because the merits of the question here involved seem to the Chair entirely clear. The Chair recollects a notable case[3] where the decision was made by the House itself. It was in a case where the gentleman from Ohio, Mr. Burton, offered an amendment to the sundry civil bill providing that no part of the appropriation to erect a certain building in the city of Cleveland could be used unless it were built of granite. Under the law the Secretary of the Treasury had the discretion of building it either of granite or sandstone. The Chairman of the Committee of the Whole ruled the amendment out of order because he held it to be affirmative legislation, but the Committee of the Whole on an appeal by a very large vote refused to sustain the decision of the Chair.

Congress has the complete and exclusive power to appropriate for the pay of the Army. It may grant or withhold appropriation to any extent it pleases. It has not the power to direct the President to do or not to do a particular thing with reference to the assignment of the Army to this country or that, but having the power to entirely withhold the appropriations that go for the pay of the Army it unquestionably has the power to direct that no part of the appropriation shall be used to pay that portion of the Army that is in a certain country or countries, as this provision does. The Chair therefore feels compelled to overrule the point of order.

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[1] Second session Sixty-seventh Congress, Record, p. 4295.

[2] Nicholas Longworth, of Ohio, Chairman.

[3] Section 3958 of Hinds' Precedents.

1658. In the absence of any statutory limitation on per diem subsistence payable from a lump sum appropriation, an amendment providing a maximum amount was held to be a limitation and in order.

On April 6, 1922,[1] the State and Justice Departments appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

For the actual and necessary traveling and subsistence expenses of consular inspectors while traveling and inspecting under instructions from the Secretary of State, $25,000: *Provided,* That inspectors shall be allowed actual and necessary expenses for subsistence, itemized, not exceeding an average of $8 per day.

A point of order made against the proviso by Mr. Thomas L. Blanton, of Texas, being sustained, Mr. James R. Mann, of Illinois, offered the following amendment:

After the figures "$25,000" insert: "*Provided,* That inspectors shall not be allowed actual and necessary expenses for subsistence, itemized, exceeding an average of $8 per day."

Mr. Blanton made a point of order against the amendment on the ground that it was legislation and unauthorized by law.

Mr. Mann, in reply, maintained that as there was no legislation fixing the amount which might be expended for subsistence, an amendment establishing a maximum amount which might be so expended was a simple limitation.

The Chairman[2] held that the amendment was not legislation but a limitation and overruled the point of order.

1659. In the absence of law fixing maximum compensation of employees, a provision establishing a maximum was held to be in order as a limitation.

Where no limit of salary was provided by statute, a provision limiting the amount of compensation of employees in the Attorney General's office to be paid from an appropriation was admitted as a limitation on an appropriation bill.

On January 23, 1931,[3] during consideration of the State, Justice, Commerce, and Labor Departments appropriation bill, the Clerk read:

For compensation and traveling expenses of special attorneys and assistants to the Attorney General and to United States district attorneys employed by the Attorney General to aid in special cases, and for payment of foreign counsel employed by the Attorney General in special cases, $450,000: *Provided,* That the amount paid as compensation out of the funds herein appropriated to any person employed hereunder shall not exceed $10,000.

Mr. Thomas L. Blanton, of Texas, made the point of order that the provision interfered with executive discretion and was not in order on an appropriation bill.

The Chairman[4] held:

The paragraph provides for compensation and traveling expenses for special attorneys and assistants to the Attorney General and to United States district attorneys employed by the Attorney General to aid in special cases, and payment of foreign counsel, and so forth, and there follows the

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[1] Second session Sixty-seventh Congress, Record, p. 5132.

[2] Cassius C. Dowell, of Iowa, Chairman.

[3] Third session Seventy-first Congress, Record, p. 2978.

[4] C. William Ramseyer, of Iowa, Chairman.

proviso that the amount paid as compensation to any person employed hereunder shall not exceed $10,000. Section 312, title 5, of the United States Code, provides:

"The Attorney General shall, whenever in his opinion the public interest requires it, employ and retain, in the name of the United States, such attorneys and counselors at law as he may think necessary to assist the district attorneys in the discharge of their duties, and shall stipulate with such assistant attorneys and counsel the amount of compensation, and shall have supervision of their conduct and proceedings."

The law does not stipulate the amount of pay for such service. The law does not limit the pay that the Attorney General is authorized to pay special attorneys and assistants to the Attorney General referred to in this paragraph. The form of the proviso against which the point of order is directed is purely a limitation upon the appropriation, and but for the limitation this pay might exceed $10,000. The Chair therefore overrules the point of order.

1660. A provision excepting a designated bureau from the objects for which an appropriation might be expended was held to be a limitation.

On December 8, 1922,[1] the Treasury Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the paragraph providing for expense of enforcing the national prohibition act was read.

Mr. John Philip Hill, of Maryland, offered an amendment as follows:

Insert: "(not authorizing, however, any expenditures for the alleged publicity or information bureau now conducted under the supervision of one Sherman A. Cuneo, or for any similar bureau)."

A question of order having been raised against the amendment by Mr. Martin B. Madden, of Illinois, the Chairman[2] held that it was a limitation and overruled the point of order.

1661. A provision that no part of an appropriation be paid any employee failing to perform duties delegated to him in connection with the enforcement of a certain law was held to be a limitation and in order on an appropriation bill.

On December 8, 1922,[3] the Treasury Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

For expenses to enforce the provisions of the national prohibition act and the act entitled "An act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon, all persons who produce, import, manufacture, compound, deal in, dispense sell, distribute, or give away opium or cocoa leaves, their salts, derivatives, or preparations, and for other purposes," approved December 17, 1914, as amended by the revenue act of 1918, including the employment of executive officers, agents, inspectors, chemists, assistant chemists, supervisors, clerks, and messengers in the field and in the Bureau of Internal Revenue in the District of Columbia, to be appointed as authorized by law; the securing of evidence of violations of the acts, and for the purchase of such supplies, equipment, mechanical devices, laboratory supplies, books, and such other expenditures as may be necessary in the District of Columbia and several field offices, and for rental of necessary quarters, $9,000,000: *Provided,* That not to exceed $750,000 of the foregoing sum shall be expended for enforcement of the provisions of the said act of December 17, 1914: *Provided further,* That not to exceed $25,000 of the total amount appropriated shall be available for advances to be made by special disbursing agents when authorized

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[1] Fourth session Sixty-seventh Congress, Record, p. 218.

[2] Everett Sanders, of Indiana, Chairman.

[3] Fourth session Sixty-seventh Congress, Record, p. 221.

by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury, the provisions of section 3648 of the Revised Statutes to the contrary notwithstanding.

Mr. Thomas L. Blanton, of Texas, proposed the following amendment:

And Provided further, That no part of this $9,000,000 shall be paid in salary or expenses to any employee of the Internal Revenue Service who willfully fails or refuses to perform his duties connected with the enforcement of the laws mentioned in this paragraph.

Mr. Martin B. Madden, of Illinois, having lodged a point of order against the amendment, the Chairman [1] held that it was a limitation and in order.

1622. On December 12, 1922,[2] the State and Justice Departments appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

DISTRICT COURTS.

Salaries: One hundred and twenty-five district judges, at $7,500 each, $937,500: *Provided,* That this appropriation shall be available for the salaries of all United States district judges lawfully entitled thereto for the fiscal year 1924.

To this Mr. Thomas L. Blanton, of Texas, offered the following:

After the figures "1924" strike out the period, insert a colon, and add the following: "Provided, That no part of this $937,500 shall be paid in salary to any district judge who willfully fails or refuses to enforce any Federal law under his jurisdiction."

Mr. Martin B. Madden, of Illinois, made the point of order that the amendment proposed legislation on a general appropriation bill.

The Chairman [3] held:

The Chair is of opinion that this is a limitation. It is true that if it were followed it might change the law to some extent, but it is a limitation nevertheless. The point of order is overruled.

1663. Denial of use of an appropriation for payment of salaries of employees of the Department of Agriculture who forecast the price of agricultural products was construed as a proper limitation and in order on an appropriation bill.

On March 2, 1928,[4] the Committee of the Whole House on the state of the Union had under consideration the Department of Agriculture appropriation bill.

When the paragraph making appropriations for the payment of salaries of personnel in the Department of Agriculture was read, Mr. Marvin Jones, of Texas, offered this amendment:

Provided further, That no part of the funds appropriated by this act shall be used for the payment of any officer or employee of the Department of Agriculture who, as such officer or employee, or on behalf of the department or any division, commission, or bureau thereof, issues or causes to be issued, any prediction, oral or written, or forecast with respect to future prices of agricultural products or the trend of same.

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[1] Everett Sanders, of Indiana, Chairman.

[2] Fourth session Sixty-seventh Congress, Record, p. 376.

[3] Willaim J. Graham, of Illinois, Chairman.

[4] First session Seventieth Congress, Record, p. 4011.

Mr. L. J. Dickinson, of Iowa, having raised a question of order, the Chairman [1] ruled:

The gentlemen from Texas offers an amendment making provision that none of the funds appropriated by this act shall be used for the payment of the salary of any employee of the Department of Agriculture who makes a forecast as to the future price of agricultural products or the trend of the same.

The gentleman from Iowa regards this as not germane to the paragraph and in the nature of a penalty rather than in the nature of a limitation. The gentleman from Texas made reference to language similar to this in the naval bill in March, 1924. On that occasion there appears to have been a series of amendments offered by the gentleman from Texas, Mr. Connally, and a point of order was made against the amendments by the gentleman from Ohio, Mr. Begg. After argument the Chairman of the Committee of the Whole, the gentleman from Illinois, Mr. Graham, after quoting a decision made the previous year by the gentleman from Ohio, Mr. Longworth, held that it was a proper amendment, that it was a limitation, and overruled the point of order. In view of the decisions of these high authorities the Chair feels constrained to hold that the amendment offered by the gentleman from Texas is in order and overrules the point of order.

1664. An instance in which the committee, overruling the Chairman, held in order as a limitation a provision indirectly changing existing law through restrictions upon executive discretion.

Discussion of effect upon the Holman rule of concentrating jurisdiction over appropriations in one committee.

Provision that no part of an appropriation be available for pay of officers recruiting boys under age was held in order as a limitation.

On March 26, 1924,[2] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

Pay of officers: For pay of officers of the line and staff, $30,338,000.

Mr. Tom Connally, of Texas, proposed this amendment:

Provided, That no part of the funds appropriated herein shall be utilized for the pay of any officer who may recruit or enlist any boy under the age of 21 years without the written consent of the parent or guardian, if any, of such boy for such enlistment.

Mr. Daniel R. Anthony, jr., of Kansas, raised the question of order that the amendment by restricting executive discretion proposed to change existing law.

After debate, the Chairman [3] ruled:

As the membership of the House knows, the present occupant of the Chair during his long service here has given some attention to parliamentary precedents. The Chair wishes to state in that connection that there has not been any one parliamentary question arising in this House to which the present occupant of the Chair has given so much attention as to this particular matter of limitation. The Chair should add that it is the most difficult of all the questions with which we have to deal here, even more so than germaneness itself.

The Chair wishes first to state his attitude toward rider legislation in general, which is one of distinct opposition to that form of legislation, and to state at least three reasons:

First, such legislation, hampered by parliamentary restrictions under which it must be made, is apt to be faulty. It is not the place for legislation. Legislation ought to be considered by a legislative committee and considered in the House as legislation. Therefore any consideration

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[1] Allen T. Treadway, of Massachusetts, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 5024.

[3] John Q. Tilson, of Connecticut, Chairman.

tion given to a rider on an appropriation bill must of necessity be superficial and unsatisfactory on account of such restrictions.

In the next place, rider legislation when enacted is tucked away in large appropriation bills, mostly concerning something else, and the law becomes a maze through which it is difficult for one to find his way. That of itself is one good reason why every opportunity to prevent rider legislation should be taken advantage of.

Third, and a much more important reason, is that it is antagonistic to one of the fundamental principles of constitutional government, which is that supply bills should be separated so far as possible from legislation. When supply bills are filled with matters of legislation differences between the two Houses are apt to arise, differences difficult of settlement, oftentimes prolonging the consideration and endangering the passage of such bills which are necessary for running the Government. Another reason more important than these is that when the bill has passed the two Houses and goes to the Executive, the Executive can not exercise his constitutional right of vetoing a matter of legislation to which he may seriously object without at the same time striking down a great appropriation bill necessary for the carrying on of the functions of the Government.

There are some of the reasons that cause the Chair to be one of those ready at all times to limit, as far as can be properly done under the parliamentary procedure of the House, legislation by way of riders on appropriation bills.

The Chair has stated that he has given consideration to this subject in times past. There are literally hundreds of decisions, and the present occupant of the Chair has read every one of them so far as they have been collected in the volume of precedents, trying to decide what is the proper line of parliamentary procedure through this inconsistent mass of precedents.

The precedents being, as they are, decisions of former Chairmen become really of little consequence on account of their conflicting character. The Chair will not attempt to bolster the ruling that he will make by any preceding ruling as such, but will simply refer to the reasoning supporting a number of such rulings.

The Chair will first ask the attention of the House to a ruling made by Speaker Cannon, found in section 3935 of Hinds' Precedents. The Chair will read only the reasons:

"The merits of the proposition are not involved in the point of order. What is the object of the motion and of the instruction? If it does not change existing law, then it is not necessary. If it does change existing law then it is subject to the point of order. Much has been said about limitation, and the doctrine of limitation is sustained upon the proposition under the rule that as Congress has the power to withhold every appropriation it may withhold the appropriation upon limitation. Now, that is correct. But there is another rule, another phase of that question. If the limitation, whether it be affirmative or negative, operates to change the law or to enact a new law in effect, then it is subject to the rule that prohibits legislation upon a general appropriation bill."

A second reference I would make is to a statement of principle by Mr. Asher Hinds in his work, section 3974:

"It has generally been held that provisions giving a new construction of law or limiting the discretion which has been exercised by officers charged with the duties of administration are changes of law within the meaning of the rule."

Another statement of the same principle by Mr. Asher Hinds reads as follows, being section 3976:

"The language of limitation prescribing the conditions under which the appropriation may be used may not be such as, when fairly construed, would change existing law."

Another reference to Hinds' Precedents, section 3973, is a decision by Mr. James S. Sherman:

"The Chair is perfectly clear on the subject.

"Rulings upon the subject of limitation have not been consistent by any manner of means; they have gone through something of an evolution. The later decisions have tended toward the point indicated, that where the proposed limitation might be construed by the executive or administrative officer as a modification of statute, a change of existing law, it could not be held to be a limitation. The Chair's belief is that the rulings along that line are correct, and so the Chair is constrained to sustain the point of order."

Just one more citation, and that is a statement in a ruling made by our distinguished colleague the gentleman from Ohio. It is to be found in section 3983, of Hinds' Precedents.

Mr. Chairman Burton in his ruling used the following language:

"The limitation seems to be such when by its terms, whether expressed in affirmative or negative language, it necessarily changes existing law. When there is expressed in the amendment a prohibition, as here, and details as to the manner of the performance of the duties of the office, it clearly points out the intention of the provision to impose new duties upon the Government officials. It is evident that the provision would be purposeless unless the effect was to change existing law. Now, if it is the duty of the United States district attorneys to act in the line directed by this amendment, the amendment is unnecessary. If it seeks to impose upon them other and further duties, it is contrary to existing law, and that is true whether it is expressed in affirmative or negative language. The Chair, therefore, sustains the point of order."

A reference was made by the gentleman from Texas, Mr. Blanton, to what is the existing law. The law as carried in the current War Department appropriation act has no reference whatsoever to this point of order. The existing law with which we are dealing is as follows, and I quote from section 1560 of Barnes' Federal Code:

"Who may enlist: Recruits enlisting in the Army must be effective and able-bodied men between the ages of 16 and 35 years at the time of their enlistment. This limitation as to age shall not apply to soldiers reenlisting. No person under the age of 18 years shall be enlisted or mustered into the military service of the United States without the written consent of his parents or guardians, provided that such minor has such parents or guardians entitled to his custody and control."

This is the existing law, so far as we are concerned, in dealing with this proposition. What does this amendment provide? It provides that—

"No part of the funds appropriated in this paragraph shall be utilized for the pay of any officer who may recruit or enlist any boy under the age of 21 years without the written consent of the parent or guardian, if any, of such boy for such enlistment."

What is the effect of the provision? The effect is that whereas it is provided by law that the recruiting officer may recruit certain young men, and makes it his duty to enlist them, still he can not be paid under this appropriation bill with this alleged limitation if he enlists such boys or men as it is his duty to enlist. This is the effect of the proposed amendment. A recruiting officer has the right, and in fact it is his duty under the law, to recruit men over 18 years of age. This provision makes it so that he can not do it. What is the effect? The effect is to change the law so far as recruiting is concerned.

The Chair desires now to call attention to one precedent which has not been cited this morning but which is valuable here. The Chair refers to a reasoning by Mr. James R. Mann, who said that an appropriation might be restricted to red-headed men only or exclude such men only from receiving any part of an appropriation. Such a limitation relates only to the qualifications of the persons paid, and the gentleman from Illinois, Mr. Mann, was correct in so stating. The amendment now under consideration, however, does not go simply to the qualifications of the persons paid. It prohibits the recruiting officer from performing a service which is legal, which it is his duty to perform, if this amendment were not inserted. The decisions are not at all consistent with each other. They are not uniform. Therefore, the Chair must be guided by the best reasoning he can find in all of these decisions, and he is entirely clear that the best and soundest reasoning is antagonistic to this amendment. The Chair sustains the point of order.

Mr. Connally having appealed from the decision of the Chair, Mr. Nicholas Longworth, of Ohio, said:

Mr. Chairman, I merely wanted to make one observation before the committee votes on this question, and I sincerely hope the committee will not take into consideration the merits one way or other of the amendment of the gentleman from Texas. I realize very well the difficulties that surround the Chair in interpreting these limitations. I have been in the Chair myself a number of times when this particular bill, the Army bill, was before the committee. The line of demarcation is very close indeed in all these propositions, but it seems to me that now we ought to realize that

it is wise on the part of the Chair to construe all these questions as strictly as possible. Most of these precedents applied before the creation of this new Committee on Appropriations, when the committees that had charge of the legislation for the Army and the Navy and various other departments also had the power of appropriating. But I think we all realize that now, when the Committee on Appropriations has taken over all of the appropriating functions of the various committees of the House, it is the part of wisdom to confine bills reported by it as closely as possible to appropriations and as little as possible to legislation.

In reply, Mr. Charles R. Crisp, of Georgia, argued:

Gentlemen of the committee, in common with you all I have great respect for the ability and fairness of the present occupant of the chair. I know that he is sincere in his rulings. But it seems to me that under the rules of the House there can be no question but that the ruling of the Chair is erroneous, for this amendment is a pure limitation and as such undoubtedly it is in order as an amendment. As to whether or not the House desires to adopt it, that is a different thing. But as to whether it comes within the limitation rule, I do not see how it is open to controversy. My friend the distinguished leader, Mr. Longworth, was presenting to the House, as the reason we should not adopt it, the fact that under the consolidation of appropriations in the Committee on Appropriations we should restrict the power of that committee. But the rules of the House placing all of the appropriations in the Committee on Appropriations affected only one rule of the House, and that rule was the Holman rule, and under that rule where the committee had jurisdiction of legislative matters as well as the authority to make appropriations the committee could report legislation in an appropriation bill if the legislation retrenched expenditures. The Committee on Appropriations never had that authority or power, and the change of the rules in no wise affected the Committee on Appropriations so far as legislating on an appropriation bill. Now, we all agree that the Committee on Appropriations is not a legislative committee. But this proposition is not suggested by the Committee on Appropriations. The Committee on Appropriations did not bring in the limitation proposed in this amendment. It is offered from the floor of the House.

But I go further, gentlemen. The Committee on Appropriations, under the decisions and precedents of the House, can bring in limitations, and the Committee on Appropriations to-day, in nearly every bill it reports, does propose some limitations. It has always been recognized that a committee can bring in limitations, and surely if the House committees can, then this great committee, composed of every Member of the House, is clothed with the same authority.

I can not see how gentlemen can doubt that this is a limitation. I think that if there were a provision in this bill which provided for the purchase of black horses that the House, if it wanted to do a silly thing, could say that no part of the funds should be used for the purpose of purchasing bay horses or white horses. I think that is a limitation which would be in order under our rules. This amendment provides that no part of the funds in the paragraph to which it is offered shall be used for this purpose. Now, if the paragraph to which it is offered is not used to pay these salaries, then the amendment will be inoperative. As a parliamentary proposition this amendment is proposed as a limitation to a particular paragraph in the bill, saying that none of the money appropriated in that paragraph can be used for this purpose. Now, if that is not a limitation I can not conceive of one.

Mr. Anthony J. Griffin, of New York, here interposed:

I am in doubt about this question, and it seems to me the main point to be considered is whether or not the proposed amendment involves new legislation or a change of existing law. The existing law, as I understand it, is that recruiting is only permitted between the ages of 16 and 35, and this proposed amendment, which seems to me to change that law, prevents the recruiting of soldiers under the age of 21. I would be glad to have the gentleman's opinion as to that.

To which Mr. Crisp replied:

This amendment, if adopted, indirectly, to a limited extent, does change existing law, but it does not permanently change existing law; in other words, this amendment can not create

any affirmative permanent legislation; it can not apply to any other funds that the department may have available; it only applies to the funds appropriated in a certain paragraph of this bill; it does not create affirmative legislation, but it says that none of the money appropriated can be used in violation of the limitation. In my judgment, the amendment is in order and the decision of the Chair should be reversed.

The Chairman, in submitting the question to the committee, said;

Before submitting the matter to the vote of the House the Chair will make a very brief statement. In ruling that this is in effect legislation on an appropriation bill the Chair is far from having any idea of depriving the House of any of its rights. he is, in fact, simply suggesting the proper tribunal to which these matters should be submitted, which is the legislative committee having jurisdiction of the subject matter and not the Appropriations Committee.

The Chair thinks that in considering this subject we should look through the form and to the substance of the matter. It has the effect of changing the law so far as the enlistment of recruits is concerned, and the Chair submits that we should look through the form and consider the effect of the proposed amendment.

In so considering this matter the Chair has arrived at a conclusion which seems unescapable in the light of the reasoning in the premises regardless of what may have been decided by himself or others in the past. As the Chair has already stated, those decisions and all the precedents on this point are conflicting; but whatever that may be the Chair has arrived at the conclusion which he has stated, believing that this is not a limitation upon the appropriation but is, in effect, a limitation upon the discretion of the executive authority, and for this reason the Chair made his ruling.

The question is, Shall the decision of the Chair stand as the judgment of the committee? The Chair will ask the gentlemen from New Jersey to assume the chair and take the vote.

Mr. Frederick R. Lehlbach, of New Jersey, having taken the chair, put the question:

The question is, Shall the decision of the Chair be the judgment of the committee?

On a division demanded by Mr. James T. Begg, of Ohio, the yeas were 76, noes 128, and the decision of the Chair was rejected as the judgment of the committee.

1665. On December 16, 1922,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When the paragraph providing pay for the Navy was reached Mr. Tom Connolly, of Texas, offered this amendment:

Provided, That no part of the funds herein appropriated shall be available for the pay of any enlisted man or officer who may be assigned to recruiting men or boys under 21 years of age without the written consent of the parent or guardian of such minor or minors.

Mr. Carl R. Chindblom, of Illinois, raised the question of order that under form of limitation the amendment proposed legislation restricting official discretion.

The Chairman[2] decided:

The Chair is quite clear that the amendment is a limitation, especially in view of recent ruling by several chairmen.

I recall that the first time the question was discussed in my hearing an amendment was offered on the Army appropriation bill, depriving certain Army officers of pay if they did certain acts in social relations with regard to privates and other officers, and the Speaker sustained the amendment. The point of order is overruled.

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[1] Fourth session Sixty-seventh Congress, Record, p. 587.

[2] Nicholas Longworth, of Ohio, Chairman.

1666. A provision that in disbursement of an appropriation in accordance with an existing law the average of salaries for any grade shall not exceed the average of rates specified by the law for the grade was held to be in order as a limitation.

On February 5, 1924,[1] the Treasury and Post Office Departments appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and a point of order presented by Mr. Thomas L. Blanton, of Texas, was pending on the following provisos read on the preceding day:

Provided, That is expending appropriations or portions of appropriations, contained in this act, for the payment for personal services in the District of Columbia in accordance with "the classification act of 1923," the average of the salaries of the total number of persons under any grade or class thereof in any bureau, office, or other appropriation unit, shall not at any time exceed the average of the compensation rates specified for the grade by such act: *Provided*, That this restriction shall not apply (1) to grades 1, 2, 3, and 4 of the clerical-mechanical service, or (2) to require the reduction in salary of any person whose compensation is fixed, as of July 1, 1924, in accordance with the rules of section 6 of such act, or (3) to prevent the payment of a salary under any grade at a rate higher than the maximum rate of the grade when such higher rate is permitted by "the classification act of 1923," and is specifically authorized by other law.

In support of the point of order, Mr. Blanton argued:

If the Chair pleases, here is an appropriation of $175,780 for certain salaries. the law now provides that these employees shall be in certain classes and that the class shall draw certain salaries. What do these two provisos do? They permit the Secretary of the Treasury, without authority of law, to shift these employees in any manner he sees fit from class to class. In other words, with these two provisos, employees who are permitted to draw under the law $1,800, apiece, could be so shifted by the Secretary of the Treasury from first one grade to another, so that they would draw $3,000 apiece or $4,000, provided the employees of certain other grades who were permitted to draw under the law $1,400 apiece where likewise shifted down the other way by the Secretary of the Treasury, who would slowly demote them to the lowest grades, so as to maintain the average as provided under the proviso. That is a change of law; that is an authorization that is beyond the present classification act.

The Chairman[2] decided:

The Committee on Appropriations has the right to place any proper limitation on an appropriation. The Committee on Appropriations can not legislate. The effect of the provisio, in the opinion of the Chair, is not properly interpreted by the gentleman from Texas. In the opinion of the Chair, the present law respecting salaries and respecting maximum salaries would prevail notwithstanding this limitation. This is clearly a limitation upon this particular appropriation, and the limitation provides that out of this appropriation the payments shall not at any time exceed the amount of the appropriation. That is within the rights of the Committee on Appropriations, and the Chair overrules the point of order.

1667. An Amendment providing that no part of an appropriation be expended in payment of officers detailed as instructors at the Naval Academy to supersede civilian instructors under specified conditions was ruled out when coupled with amendments carrying provisos embodying affirmative legislation but admitted when reoffered without the provisos.

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[1] First session Sixty-eighth Congress, Record, p. 1943.

[2] Everett Sanders, of Indiana, Chairman.

On March 21, 1924,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read:

Pay, Naval Academy: Pay of professors and others, Naval Academy: Pay of professors and instructors, including one professor as librarian, $275,000: *Provided,* That not more than $36,500 shall be paid for masters and instructors in swordsmanship and physical training.

To the pending paragraph Mr. James T. Begg, of Ohio, offered this amendment:

No part of any sum in this act appropriated shall be expended in the pay or allowances of any commissioned officer of the Navy detailed for duty as professor or instructor in academic subjects at the United States Naval Academy to perform the duties which were performed by civilian professors or instructors on January 1, 1922, whenever the number of civilian professors or instructors employed in such duties shall be less than 80: *Provided,* That in reducing the number of civilian professors no existing contract shall be violated: *Provided further,* That no civilian professor, associate or assistant professor, or instructor shall be dismissed, except for sufficient cause, without six months' notice to him that his services will be no longer needed.

A point of order raised against the amendment by Mr. Burton L. French, of Idaho, on the grounds that the provisos imposed duties and therefore comprised legislation, was sustained by the Chairman.[2]

Thereupon, on suggestion of the Chairman, Mr. Begg offered the amendment without the provisos, in which form it was entertained without objection.

1668. Provision that no funds appropriated by a bill be expended for pay of any retired officer of the United States assigned to duty as a military attaché at any legation abroad was held to be a limitation.

On March 25, 1924,[3] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The paragraph providing for contingent expenses of the Military Intelligence Division, General Staff Corps, being read, Mr. Fiorello H. LaGuardia, of New York, offered this amendment:

Provided, That no funds herein appropriated shall be expended for the pay, allowance, or expense of any retired officer of the United States Army assigned to duty as a military attaché at any United States embassy or legation abroad.

Mr. Martin B. Madden, of Illinois, reserved a point of order on the amendment.

After debate, the Chairman[4] said:

The Chair thinks this is a limitation on the qualifications of the person receiving the appointment and therefore the Chair overrules the point of order.

1669. An amendment denying compensation to veterans of the military service receiving pay in excess of a specified amount was held to be in order as a limitation.

On January 8, 1929,[5] the House resolved itself into the Committee of the Whole House on the state of the Union for further consideration of the War Department

[1] First session Sixty-eighth Congress, Record, p. 4663.

[2] William J. Graham, of Illinois, Chairman.

[3] First session Sixty-eighth Congress, Record, p. 4986.

[4] John Q. Tilson, of Connecticut, Chairman.

[5] Second session Seventieth Congress, Record, p. 1383.

appropriation bill, and Mr. Fiorello H. LaGuardia, of New York, offered this amendment:

Provided further, That none of the money appropriated in this act shall be used to pay any officer or enlisted man on the retired list of the Army who is in the employ of the United States and whose salary for such employment exceeds $2,500 per annum.

Mr. Henry E. Barbour, of California, having made a point of order that the amendment proposed legislation, the Chairman [1] held:

The amendment offered by the gentleman from New York seems to the Chair clearly a limitation, and a proper limitation from a parliamentary standpoint. It refers only to the money appropriated in this bill and limits the purposes for which this money may be expended. The Chair overrules the point of order.

1670. An amendment forbidding payment of salary authorized by law from any part of an appropriation to a designated individual was held to be a limitation and in order on an appropriation bill.

On March 26, 1924, [2] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Pay of persons with retired status: For pay of the officers on the retired list, $7,032,337: *Provided,* That no part of this sum shall be paid to Col. John E. Hunt, United States Army, retired.

Mr. L. J. Dickinson, of Iowa, in making a point of order against the proviso in the paragraph said:

Mr. Chairman, it is my contention that a limitation can not in effect repeal existing law. Under the present existing law it is the duty of the proper officials of the Government to pay to Colonel Hunt the retired pay of a colonel under the pay bill of the Army. That is entirely an executive function. In effect, this proviso repeals that law in that it deprives Colonel Hunt of his pay in this appropriation bill. He could go to the Court of Claims and have a decision rendered and receive his pay. It is an interference with an executive function. It is not a proper limitation on an appropriation bill.

The Chairman [3] ruled:

If the gentleman's argument were addressed to the merits of the question, what the gentleman from Iowa had said would be persuasive, but it has been pretty thoroughly established that Congress may refuse to appropriate for a perfectly legitimate purpose. In the mind of the Chair it is purely a limitation. It does not restrict the discretion of any executive officer. It simply declines to appropriate for a perfectly legal object. The Chair overrules the point of order.

1671. It is not in order to offer on a general appropriation bill under guise of limitation an amendment providing affirmative direction to an executive.

On February 17, 1908, [4] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read:

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] First session Sixty-eight Congress, Record, p. 5041.

[3] George P. Lawrence, of Massachusetts, Chairman.

[4] First session Sixtieth Congress, Record, p. 2100.

SEC. 3. The appropriations herein made for the officers, clerks, and persons employed in the public service shall not be available for the compensation of any persons incapacitated for performing the service for which such person has been employed, and the heads of departments shall cause this provision to be enforced either by the demotion or removal or such person from the public service.

Mr. Joseph A. Goulden, of New York, made the point of order against the paragraph that while purporting to be a limitation it was in effect legislation imposing affirmative restrictions on legislative discretion.

The Chairman [1] held:

The gentleman from New York makes the point of order against section 3. That section provides:

"SEC. 3. The appropriations herein made for the officers, clerks, and persons employed in the public service shall not be available for the compensation of any persons incapacitated for performing the service for which such person has been employed, and the heads of departments shall cause this provision to be enforced either by the demotion or removal or such person from the public service."

The House, of course, has a right to withhold an appropriation in whole or in part. It also has a right to specify in what way an appropriation shall be expended, by what is called a limitation. But a limitation may not be such as when fairly construed is an affirmative change of existing law. It seems clear to the Chair that this paragraph limits the discretion of heads of the departments in that it requires them to do certain things which they would otherwise not be required under the law to do. The Chair, therefore, sustains the point of order.

1672. An amendment may not under guise of limitation provide affirmative directions which impose new duties.

A provision withholding appropriations for payment of tax refunds not approved by the Joint Committee of Internal Revenue Taxation was held not to be admissible as a limitation.

On January 7, 1928, [2] during consideration of the first deficiency appropriation bill, in the Committee of the Whole House on the state of the Union, a section appropriating for tax refunds in the Treasury Department was reached.

Mr. Joseph W. Byrns, of Tennessee, offered an amendment as follows:

Provided, That no part of the appropriation herein made shall be available for paying any tax refund in excess of $75,000 which has not been approved by the Joint Committee on Internal Revenue Taxation.

Mr. Daniel R. Anthony, of Kansas, made the point of order that the amendment, while in the form of a limitation, required affirmative action and was in the nature of new legislation.

The Chairman [3] ruled:

It is a well-known rule of the House that amendments which limit expenditures of money appropriated for a general purpose by excluding some specific purpose embraced in the general purpose are in order, but the rule is clear that such limitation to be in order must simply forbid the use of the money for a certain given purpose. It is the rule that anything carrying an affirmative, substantive change in existing law, that limits the functions or jurisdiction of an executive officer so drastically as to constitute a change of policy, or that imposes upon a governmental

[1] George P. Lawrence, of Massachusetts, Chairman.

[2] Second session Seventieth Congress, Record, p. 1315.

[3] Frederick R. Lehlbach, of New Jersey, Chairman.

agency new duties not imposed upon it by law, is beyond the definition of a limitation, and is therefore, not in order.

The amendment under consideration provides that no tax refunds shall be paid by the Treasury Department in excess of $75,000 which have not been approved by the Joint Committee on Internal Revenue Taxation. In the first place, ever since the existing income tax law has been in force the Treasury Department has had full discretion in making refunds where it was found that taxes had been improperly paid. To subject that function to the review of another body which has not a present that function is new legislation, involving an important change of policy, and is such a limitation on existing rights and powers of the Secretary of the Treasury as the constitute new legislation.

The point that remains, which is governing, in the mind of the Chair, is that it imposes upon the Joint Committee on Internal Revenue Taxation a function that is not now imposed upon it by law, and this incumbent of the Chair has repeatedly held that such imposition of new duties, in the guise of a limitation, is not in order. The Chair will cite one precedent rendered on March 11, 1916 [1]

"But such limitations must not give affirmative directions and must not impose new duties upon an executive officer of the Government."

Now, whether it is an executive officer or a legislative body, an agency of the Government must not, in the form of a limitation, have imposed new duties. Therefore the amendment is held out of order.

1673. A limitation must be on the appropriation and not on the functions of an executive.

Where discretion as to the number of clerks to be employed was vested in an executive a proposal to limit that number rather than the appropriation was held not to be admissible as a limitation.

On March 1, 1910, [2] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

And the appointment and assignment of clerks hereunder shall be so made during the fiscal year as not to involve a greater aggregate expenditure than this sum, and the assignment of the several grades of compensation to the various offices shall be made, so far as practicable, in proportion to the amount of business transacted through such offices and the respective divisions thereof, and that the total number of clerks and employees in the service June 30, 1911, shall not exceed 33,200.

Mr. James R. Mann, of Illinois, having raised a point of order on the paragraph Mr. William Hughes, of New Jersey, said:

Mr. Chairman, I understand the Postmaster General has the authority to employ clerks and carriers and other officials. If he has the right now at this time to employ more than 33,200, and I think he has, then this attempt in an appropriation bill to limit his authority to employ more than 33,200 is clearly new legislation and subject to the point of order.

The Chairman [3] held:

This provision, in the opinion of the Chair, is not a limit on the appropriation, but a limit on the official functions of an executive officer, and it has been ruled over and over again that that is not proper in a general appropriation bill. The Chair therefore sustains the point of order.

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[1] Sec. 1676 of this work.

[2] Second session Sixty-first Congress, Record, p. 2590.

[3] George P. Lawrence, of Massachusetts, Chairman.

1674. An amendment limiting the discretion of an executive is not in order as a limitation.

Provision that no contract for clerks be made for any amount in excess of the sum appropriated for the purpose was held to be legislation, but provision that no part of the appropriation be applied to payment of clerks in excess of a stated number was admitted as a limitation.

On March 3, 1910,[1] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and a paragraph providing an appropriation for clerks in post offices had been read.

Mr. John J. Gardner, of New Jersey, offered an amendment:

No liability for any amount in excess of this sum shall be contracted for salaries of clerks and employees at first and second class post offices for services rendered during the fiscal year for which this appropriation is made.

Mr. James R. Mann, of Illinois, made the point of order that the amendment involved legislation.

The Chairman[2] ruled:

The gentleman from New Jersey offers the following amendment:

"No liability for any amount in excess of this sum shall be contracted for salaries of clerks and employees at first and second class post offices for services rendered during the fiscal year for which this appropriation is made."

He claims that this amendment is in order, on the ground that it is a limitation. In the opinion of the Chair the House can not, on a general appropriation bill, authorize a contract; neither can it forbid one.

"Where an amendment places a limitation which would not otherwise exist upon the discretion of one of the executive departments of the Government, forcing the head of that department to do certain things which otherwise he would not be required to do, that is more than a limitation upon an appropriation. It is substantially a positive enactment."

It seems to the Chair that this amendment is legislation, and not in order under our rule on a general appropriation bill. He therefore sustains the point of order.

Thereupon Mr. Gardner proposed the amendment in form as follows:

No part of this appropriation shall be applied to the force of clerks of the classes herein appropriated for exceeding in number 33,200.

Mr. William Hughes, of New Jersey, having raised a point of order on the amendment as modified, the Chairman said:

The Chair thinks that under the precedents the amendment as now offered by the gentleman from New Jersey should be held to be a limitation. It has been held than an amendment providing that no part of an appropriation for the army shall be available for any army over a certain size was in order on the ground that it was a limitation. The Chair, following this precedent, overrules the point of order.

1675. An amendment to an appropriation bill proposing a limitation of authority exercised by an executive rather than a limitation on expenditure was held not to be in order.

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[1] Second session Sixty-first Congress, Record, p. 2686.

[2] George P. Lawrence, of Massachusetts, Chairman.

On February 13, 1912,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. J. Hampton Moore, of Pennsylvania, offered as a new paragraph the following:

That from and after the passage of this act it shall not be lawful for any department or bureau of the United States to sell any arms of any kind, manufactured or acquired by such department or bureau, for naval or military purposes, except as hereinafter provided: *And provided further,* That whenever any arms of any kind intended for naval or military purposes shall be condemned by any department of bureau of the United States, or shall become unfit for official use by such department or bureau, they shall be so broken or otherwise mutilated as to render them harmless as instruments of warfare or violence, and only when so broken or mutilated shall they be sold or disposed of by any such department or bureau.

Mr. James Hay, of Virginia, made the point of order that the amendment proposed legislation rather than a limitation upon expenditures.

The Chairman [2] sustained the point or order and said:

The point of order is sustained. It is not a limitation on expenditures, but a limitation of authority, and is an affirmative direction. The point of order is sustained.

1676. A proper limitation does not interfere with executive discretion or require affirmative action on the part of Government officials.

On March 11, 1916,[3] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Joseph W. Byrns, of Tennessee, offered this amendment as a new section:

SEC. 4. That appropriations in this act shall not be used during the fiscal year 1917 for the purchase of any typewriting machine at a price in excess of the lowest price paid by the Government of the United States for the same make and substantially the same model of machine during the fiscal year 1915; such price shall include the value of any typewriting machine or machines given in exchange, but shall not apply to special prices granted on typewriting machines used in schools of the District of Columbia or of the Indian Service, the lowest of which special prices paid for typewriting machines shall not be exceeded in future purchases for such schools: *Provided,* That in construing this section the Commissioner of Patents shall advise the Comptroller of the Treasury as to whether the changes in any typewriter are of such structural character as to constitute a new machine not within the limitations of this section.

Mr. James R. Mann, of Illinois, made the point of order that the proposed amendment provided legislation.

The Chairman [4] ruled:

The Chair, without taking time to cite specifically the precedents, recognizes the proposition that a limitation can be placed on an appropriation bill, but the rulings of the House are that the limitation, when fairly construed, shall not be such as to interfere with any executive discretion or to require any affirmative act on the part of any of the Government officials. In the amendment in question, the proviso, the Chair thinks, falls within one of these classes, and part of the amendment being subject to a point of order, the whole amendment is tainted, and the Chair therefore sustains the point of order.

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[1] Second session Sixty-second Congress, Record, p. 2029.

[2] Edward W. Saunders, of Virginia, Chairman.

[3] First session Sixty-fourth Congress, Record, p. 3970.

[4] Charles R. Crisp, of Georgia, Chairman.

1677. An amendment affirmatively interfering with executive discretion is not in order as a limitation.

On March 11, 1916,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Edward Keating, of Colorado, proposed the following amendment as a new section:

That appropriations herein made shall not be available for the compensation of any administrative officer who shall, after the passage of this act, demote or dismiss, or cause the demotion or dismissal, of any employee in the classified civil service of the United States without giving said employee an opportunity for an oral hearing with the privilege of counsel and witnesses.

Mr. Joseph W. Byrns, of Tennessee, made the point of order that the amendment was in effect legislation.

After debate, the Chairman[2] held that the amendment proposed interference with executive discretion, and was therefore not in order.

1678. A limitation to be in order must be upon the appropriation and not an affirmative limitation of official functions.

On June 26, 1916,[3] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph appropriating for regular supplies of the Quartermaster Corps was read.

Mr. William P. Borland, of Missouri, proposed this amendment:

Provided, That no money shall be expended out of the appropriations in this bill for supplies for the Army except under contracts which specify delivery either at the place where the supplies are to be used or at some convenient point on a land-grant railroad for shipment to the place of consumption at the option of the contractor.

Mr. James Hay, of Virginia, made the point that while in the form of a limitation the amendment proposed a requirement on the department changing substantive law.

The Chairman[4] held:

The amendment submitted by the gentleman from Missouri is as follows:

"*Provided further,* That no money shall be expended out of the appropriation in this bill for supplies for the Army, except under contracts which specify delivery either at the place where the supplies are to be used or at some convenient point on a land-grant railroad for shipment to the place of consumption, at the option of the contractor."

The point of order is made that this amendment is not a limitation, but a provision making new law.

A limitation to be sustained must be upon the appropriation, and not an affirmation limitation of official functions.

A long line of decisions on the subject of limitations holds that the limitation to be in order must be in effect simply a negative bar pressing upon the appropriation of the money, and that any amendment which, directly or indirectly, imposes upon any officer a duty in the expenditure of the money is obnoxious to a point of order. (Hinds', p. 655.)

Rulings upon the subject of limitations have not been consistent by any means; they have gone through something like an evolution. The decisions have tended, however, to establish and

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[1] First session Sixty-fourth Congress, Record, p. 3972.

[2] Charles R. Crisp, of Georgia, Chairman.

[3] First session Sixty-fourth Congress, Record, p. 10003.

[4] Edward W. Saunders, of Virginia, Chairman.

make clear that were the proposition submitted as a limitation might be construed by the executive or administrative officer as a modification of statute, a change of existing law, or new law, it can not be sustained as a limitation.

A few precedents in this connection may be appropriately cited.

On March 24, 1904, the following amendment was offered to the Post Office bill:

"*Provided further,* That no money hereby appropriated shall be expended in the payment of salaries to rural delivery carriers, at a less sum for their services, than $720 per annum."

A point of order to this amendment was sustained. (Hinds', p. 667.)

On January 23, 1906, the following amendment was offered to the urgent deficiency bill:

"*Provided,* That no part of the sum herein appropriated shall be used for the payment of transportation charges upon American vessels where said charges are more than 20 per cent in excess of similar transportation charges upon foreign vessels."

A point of order to this amendment was sustained. (Hinds' p. 669.)

In December, 1906, the following amendment was offered to the legislative appropriation bill:

"*Provided,* That no part of the compensation provided by this act shall be paid to the Public Printer unless he shall, in printing documents, authorized by law, or ordered by Congress, or either branch thereof, conform in the spelling thereof to the rules of orthography recognized and used by accepted dictionaries of the English language."

A point of order was sustained. (Hinds', p. 673.)

The following amendment was made to the Agricultural bill in February, 1896:

"*Provided,* That no part of the $8,000, for compensation of the Secretary of Agriculture provided for by this bill, shall be available or payable until the said Secretary shall have expended for seeds the amount appropriated in said act approved March, 1895, and shall have purchased and distributed the seeds provided for in said act."

A point of order was sustained. (Hinds' p. 675.)

In February, 1907, the following amendment was offered to the Post Office appropriation bill:

"*Provided,* That no part of this sum shall be expended in payment for transportation of the mails by railroad routes where the averate weight of mails per day has been computed by the use of a divisor less than the whole number of days such mails have been weighed."

A point of order was sustained. (Hinds' p. 672.)

The following amendment was offered to the Post Office appropriation bill on April 13, 1906:

"Provided, That not to exceed $4,200,000 of said sum so appropriated shall be expended for horse hire and wagon equipment for rural mail service."

A point of order was sustained. (Hinds', p. 653.)

This amendment provides that no payment shall be made out of the appropriations for supplies except under contracts of a certain indicated character.

Now, if there are no such present contracts, and existing law does not require them, then it is perfectly clear that no supplies for the Army could be purchased by the appropriations provided by this bill until all the contracts relating to the same were conformed to the Borland amendment. In other words, the substantial effect of the Borland amendment is to provide in this respect a more of affirmative requirement than of limitation in this amendment.

The Chair, therefore, is of opinion that the amendment is subject to the point of order and sustains the same.

1679. A limitation must be on the appropriation and not on executive discretion.

While formerly construed as limitations, the latest decisions hold amendments prohibiting expenditures from appropriations in purchasing commodities at prices in excess of estimated cost of manufacture in Government plants to involve legislation.

On February 18, 1919,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Harry E. Hull, of Iowa, offered the following as a new paragraph:

Insert a as a new paragraph:

"*Provided,* That no part of the moneys appropriated in each or any section of this act shall be used or expended for the purchase or acquirement of any article or articles that at the time of the proposed acquirement can be manufactured or produced in each or any of the Government arsenals of the United States for a sum less than they can be purchased or procured otherwise."

Mr. William H. Stafford, of Wisconsin, raised a point of order on the paragraph. After brief debate, the Chairman[2] overruled the point of order.

1680. On January 18, 1923,[3] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Harry E. Hull, of Iowa, proposed to insert in the bill as a new paragraph the following amendment:

No part of the moneys appropriated in each or any section of this act shall be used or expended for the purchase or acquirement of any article or articles that at the time of the proposed acquirement can be manufactured or produced in each or any Government navy yard of the United States for a sum less than it can be purchased or acquired otherwise.

Mr. Homer P. Snyder, of New York, in making a point of order on the amendment contended that it was legislation and that it was not apparent that even if enacted it would limit expenditure.

In reply, Mr. Finis J. Garrett, of Tennessee, submitted that the question as to whether it would limit expenditure if placed in operation was not germane to the point of order and did not affect the parliamentary status of the proposition.

Mr. Eugene Black, of Texas, in debating the point of order, said:

Mr. Chairman, it seems to me that the gentleman from Iowa has offered an amendment very similar in character to the following provision already carried in the bill:

"No part of the moneys appropriated in this act shall be used for paying to any civilian employee of the United States Government an average daily wage or salary larger than that customarily paid by private individuals for corresponding work in the same locality."

I recall that when the provision which I have just read was offered as an amendment to this same Army appropriation bill in the session of Congress in which the appropriation bill for the fiscal year 1923 was passed a point of order was made against it upon the ground that it was new legislation. The Chair overruled the point of order upon the ground that it is a limitation, and therefore in order. I can see but very little difference, if any, between the language which I have just read and the amendment offered by the gentleman from Iowa.

The Chairman[4] held:

The point of the gentleman form Texas seems to be well taken. The same principle that would apply to the paragraph already in the bill would also apply to this amendment. It is a limitation because it is simply a description of a class of articles that may be purchased, if the articles to be purchased can be brought under the classification made. It seems to the Chair that it is a proper limitation upon an appropriation bill. It prescribes no new duties for any official, and it does not restrict any official except in a negative way by preventing him from expending

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[1] Third session Sixty-fifth Congress, Record, p. 3731.

[2] Edward W. Saunders, of Virginia, Chairman.

[3] Fourth session Sixty-seventh Congress, Record, p. 1970.

[4] John Q. Tilson, of Connecticut, Chairman.

appropriations. It seems to the Chair that it is only a limitation, and therefore is in order. The Chair overrules the point of order.

1681. On February 26, 1923,[1] the third deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph was read appropriating for alterations in the armament of certain capital battleships.

To this paragraph Mr. Frederick W. Dallinger, of Massachusetts, proposed the following amendment:

Provided, That no part of the moneys appropriated in this paragraph shall be used or expended for making such changes in private establishments or for the purchase of acquirement of any article or articles that at the time of the proposed changes, purchase, or acquirement can be made, manufactured, or produced in each or any of the Government navy yards of the United States, if time and facilities permit, for a sum less than they can be made, purchased, or acquired otherwise.

Mr. Martin B. Madden, of Illinois, made the point of order that the amendment proposed legislation.

The Chairman[2] said:

This is clearly a limitation as to an executive discretion and not a limitation as to an expenditure in the interest of economy. It does not come within the purview of the rule, and the point of order is sustained.

1682. On March 28, 1924,[3] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Alfred J. Taylor, of West Virginia, offered the following amendment to the bill:

Provided, That no part of the money herein appropriated for military purposes shall be expended in the purchase from private manufacturers of ordnance and ordnance supplies at a price in excess of the cost of manufacturing such material by the Government, or where such material is not or has not been manufactured by the Government at a price in excess of the estimated cost of manufacture by the Government.

Mr. L.J. Dickinson, of Iowa, made the point of order that the amendment was legislation.

The Chairman[4] said:

The Chair would call attention to this language in the amendment:

"*Provided,* That no part of the money herein appropriated for military purposes shall be expended in the purchase from private manufacturers of ordnance and ordnance supplies at a price in excess of the cost of manufacturing such material by the Government, at a price in excess of the estimated cost of manufacture by the Government."

The limitation is merely that no part of the appropriation shall be expended to purchase from private manufacturers at a price in excess of the cost of manufacturing such material by the Government. There is no saving in that. If the price is equal, of course there will be no saving.

In the view of the present occupant of the chair it is a limitation as to executive discretion rather than as to expenditure or as to the use of the appropriation.

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[1] Fourth session Sixty-seventh Congress, Record, p. 4695.

[2] Clifton N. McArthur, of Oregon, Chairman.

[3] First session Sixty-eighth Congress, Record, p. 5176.

[4] Carl R. Chindblom, of Illinois, Chairman.

In the opinion of the Chair this amendment is subject to objection and the Chair sustains the point of order.

1683. Making an appropriation available upon condition that affirmative action be taken is legislation and not limitation.

Provision that no part of an appropriation be used until certain employees were reinstated in positions from which discharged was held not to be in order on an appropriation bill.[1]

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[1] This decision overruled a long line of previous decisions under which provisions that appropriations be not available "unless" or "until" certain conditions precedent were complied with were held in order.

Illustrative of a line of decisions no longer approved, the following (January 16, 1919, third session Sixty-fifth Congress, Record, p. 1564) is typical:

The House was considering the bill H.R. 14078 (the legislative, executive, and judicial appropriation bill) when Mr. Dyer offered the following amendment:

"*Provided,* That no part of any appropriation herein shall be used unless all former Government employees who resigned to enter the military service in the war with Germany shall be reinstated on application to their former positions appropriated for herein if they have receive an honorable discharge and are qualified to perform the duties of the position."

Mr. Byrns, of Tennessee, made the point of order that it was legislation.

Chairman (Mr. Joshua W. Alexander, of Missouri) overruled the point of order and said:

"The question, of course, is whether or not this is a limitation, or whether in addition to being a limitation it proposes legislation. Now, the rule, as the Chair understands it, is that while it is not in order to legislate as to the qualifications of the recipients of an appropriation, the House may specify that no part of an appropriation shall be paid to persons lacking certain qualifications."

On January 30, 1901, the agricultural appropriation bill was under consideration in Committee of the Whole House on the state of the Union, and the Clerk had read the paragraph relating to agricultural colleges, when Mr. Charles B. Landis, of Indiana, proposed this amendment:

"*Provided,* That no part of the appropriation shall be available for the agricultural college of Utah until the Secretary of Agriculture shall be satisfied and shall so certify to the Secretary of the Treasury that no trustee, officer, instructor, or employee of said college is engaged in the practice of polygamy or polygamous relations."

Some debate having taken place, and Mr. William H. King, of Utah, having suggested a point of order, the Chairman said:

"There are two reasons why the Chair would be inclined to overrule the point. In the first place, it comes rather late, and, in the second place, the amendment seems to be a limitation upon this appropriation."

The amendment having been agreed to, Mr. King offered the following amendment:

"And that no person shall be appointed a teacher or trustee in any of said colleges who has been engaged in any lynching, and until proof shall have been furnished, to the satisfaction of the Secretary of Agriculture, that such teacher or trustee has not been guilty of adultery or fornication."

Mr. Charles H. Grosvenor, of Ohio, made the point of order that the amendment was not in order.

The Chairman said:

"Let the Chair state to the gentleman that the ruling on the other amendment was that that was a limitation upon the appropriation—providing that no part of this appropriation shall be paid to the agricultural college, in general terms, until it was ascertained that no teacher or trustee was a polygamist. That is a general statement of that amendment. That was a limitation upon the appropriation. Then comes this independent proposition involving legislation. * * * The Chair sustains the point of order."

On June 11, 1919,[2] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read a paragraph making appropriation for Army flying schools, and including the following proviso:

Tht no part of any appropriations herein shall be used unless all former civilian flying instructors who were dismissed on or about December 31, 1918, shall be reinstated on application to their former positions as from the date of such dismissal up to and including June 30, 1919.

Mr. Eugene Black, of Texas, made a point of order against this proviso.

After debate, the Chairman[3] ruled:

This is a limitation on the appropriation, but it is a limitation that also calls for affirmative action on the part of the executive. Therefore, it is subject to a point of order, and the Chair sustains the point of order.

1684. An amendment denying use of an appropriation until an executive should take affirmative action was held to constitute legislation.

Provision withholding an appropriation until the Secretary of the Navy ordered an annual inventory was ruled out of order.

On May 13, 1930,[4] during consideration of the naval appropriation bill, in the Committee of the Whole House on the state of the Union, a paragraph making appropriation for the Bureau of Supplies and Accounts was read.

Mr. James V. McClintic, of Oklahoma, offered an amendment as follows:

Provided, That no part of this appropriation shall be expended until the Secretary of the Navy shall order an inventory taken annually for the purpose of establishing a complete check on all necessary articles and supplies, and put into effect such rules and regulations as will be necessary to carry out this proviso.

Mr. Burton L. French, of Idaho, submitted that the amendment was affirmative legislation.

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[1] (Continued from page 675.)

Thereupon Mr. King offered the following:

"*Provided,* That no part of this appropriation shall be available for the agricultural college of Indiana, or any other State or Territory, until the Secretary of Agriculture shall be satisfied, and shall so certify to the Secretary of the Treasury, that no trustee, officer, instructor, or employee of said college is engaged in the practice of polygamy or polygamous relations or is guilty of adultery or fornication.'

Mr. Grosvenor made the point of order against the amendment.

The Chairman overruled the point of order, and held that the amendment was in order saying:

"The Chair has read from Hinds' Precedents of the House of representatives, section 3942.

"The Chair is of the opinion that the question presented by the amendment is on all fours with the one presented in the precedent cited by the Chair. The point of order is overruled. The question is on agreeing to the amendment."

(This ruling was reaffirmed by specific reference in decisions by chairman Garner, Jan. 29, 1919, p. 2394; Chairman Saunders, Feb. 18, 1919, p. 3891; Chairman Foster, Feb. 24, 1919, p. 4342; and Chairman Caraway, Feb. 24, 1919, p. 4360.)

[2] First session Sixty-sixth Congress, Record, p. 993.

[3] Philip P. Campbell, of Kansas, Chairman.

[4] Second session Seventy-first Congress, Records, p. 8885.

The Chairman [1] sustained the point of order and said:

The amendment offered by the gentleman from Oklahoma provides:

"That no part of this appropriation shall be expended until the Secretary of the Navy shall order an inventory taken annually"—

And so forth. The amendment does not on its face bring about any reduction or retrenchment in expenditures. The Chair does not regard it as a limitation, and in any event it imposes a new duty upon the Secretary of the Navy, which can not be done under the guise of a limitation. Therefore the Chair sustains the point of order.

1685. A limitation to be admissible must be a limitation upon the appropriation and not an affirmative limitation upon official discretion.

On February 10, 1920,[2] the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the section providing for the Forestry Service was reached.

Mr. Gilbert N. Haugen, of Iowa, proposed this amendment:

Provided further, That no part of any appropriation in this act for Forest Service shall be expended on any national forest in which the fees charged for grazing shall be at a rate less than 300 per cent of the existing rate.

Mr. Carl Hayden, of Arizona, submitted a point of order that the amendment sought to enact legislation under guise of limitation.

The Chairman [3] ruled:

The gentleman from Iowa offers an amendment, which reads as follows:

"*Provided further,* That no part of any appropriation in this act for the Forest Service shall be expended on any national forest in which the fees charged for grazing shall be at a rate less than 300 per cent of the existing rates."

To which amendment the gentleman from Arizona makes the point of order that it is legislation changing existing law and is not proper to be placed on the bill.

The Chair has examined the precedents cited by gentlemen who have discussed the point of order, and the Chair believes that as a general proposition an amendment proposed as a limitation must be a limitation upon the appropriation, and should not be an affirmative limitation upon the official who may be vested with discretion or specific authority under existing law. In the view of the Chair, this limitation does not come within the rule laid down in the case of the public vehicles where the appropriation was withheld for a certain class of public vehicles.

The Chair understands, as he referred to the authority yesterday, that the Secretary of Agriculture under existing law is vested with certain discretionary power. It is sought by this amendment to so modify that law, which gives him the general discretion or wide discretion, as to limit his discretion in the matter of the regulation of fees for grazing on national forests. In the opinion of the Chair this is a limitation which would forbid the whole of the appropriation made for the national forests from being expended, except upon the condition that an executive officer should take a certain specified course which he is not now required to take under existing law, and it is a limitation upon the discretion and authority of the executive officer rather than a limitation upon the appropriation. The Chair does not think that the amendment comes within the provisions of the rule, and is therefore constrained to sustain the point of order.

Whereupon Mr. Sydney Anderson, of Minnesota, offered the amendment in modified form:

Provided further, That no part of any appropriation in this act for the Forest Service shall be expended on or in connection with any national forest in which the fees charged for grazing

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[1] Homer Hoch, of Kansas, Chairman.

[2] Second session Sixty-sixth Congress, Record, p. 2720.

[3] Joseph Walsh, of Massachusetts, Chairman.

shall be less than the appraised value of such grazing as determined by the Secretary of Agriculture.

Mr. Hayden having renewed the point of order, the Chairman [1] said:

The gentleman from Minnesota offers an amendment which provides—
"that no part of any appropriation in this act for the Forest Service shall be expended on or in connection with any national forest in which the fees charged for grazing shall be less than the appraised value of such grazing as determined by the Secretary of Agriculture."

To which amendment the gentleman from Arizona makes the point of order that that is not a proper limitation, in that it is legislation which changes existing law.

The Chair is advised by the memorandum submitted by the gentleman from Iowa, Mr. Haugen, chairman of the Committee on Agriculture, that the Supreme Court has held that the provisions of the act of June 4, 1897, give the Secretary of the Interior authority and discretion in making provisions for the protection of forests against destruction by fire, and against depredations, to make rules and regulations for such service as will insure the object of the reservation and permit the Secretary to fix the charge for such use.

The Chair thinks the authority conferred by that act is very broad and general in its terms, and that it confers wide discretion on the Secretary of Agriculture. In the view of the Chair the limitation offered to the provision of the bill with reference to the Forest Service, making appropriations for that service, which might be construed as modifying the existing law limiting the wide discretion given by that law, must necessarily be held to be a change of existing law. And while the amendment does not positively establish the fee as the amendment offered by the gentleman from Iowa did, still it directs the Secretary to act in a particular manner in arriving at the fee which he shall charge, and in that respect it limits his discretion and modifies the general provisions of the law contained in the act of 1897. For this reason the Chair feels constrained to sustain the point of order.

1686. A limitation upon an appropriation must not be accompanied by provisions requiring affirmative action by an executive in order to render the appropriation available.

On May 11, 1920,[2] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and a paragraph providing an appropriation for the Immigration Service had been read, when Mr. C.B. Hudspeth, of Texas, offered the following:

Provided, That no part of the money herein appropriated for the Immigration Service shall be expended until the Secretary of Labor has allotted to the Director General of Immigration a sufficient sum to enable the Director General of Immigration to adequately equip the border patrol guard along the border of the United States and Mexico, so that said border patrol guard shall be in sufficient numbers to prevent the entry into the United States of undesirable aliens and undesirable persons prohibited from entering this country by law.

Mr. James W. Good, of Iowa, made the point of order that the amendment proposed a change of existing law.

The Chairman [3] ruled:

The amendment proposed by the gentleman from Texas is in the form of a limitation. While consideration must be given to the form of the amendment proposed as a limitation for the purpose of determining whether it is in fact a limitation, still the question whether it is a limitation or not must in the last analysis be determined by whether it is a negative upon the appropriation or an affirmative direction addressed to the discretion of the officer for whose department the appropriations are made.

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[1] Joseph Walsh, of Massachusetts, Chairman.

[2] Second session Sixty-sixth Congress, Record, p. 6872.

[3] Sydney Anderson, of Minnesota, Chairman.

While the pending amendment is in the form of a limitation applying to the entire appropriation, it in fact undertakes to direct the discretion of the Secretary of Labor in a matter in which he now has full discretion.

The Chair thinks that the question involved in this limitation is similar to the question decided under paragraph 3957 of Hinds' Precedents, which is stated as follows:

"The limitation must be upon the appropriation and not an affirmative limitation of official functions."

The present occupant of the chair thinks that the precedent which he has just cited is applicable to the amendment proposed by the gentleman from Texas and therefore sustains the point of order.

1687. On January 14, 1997,[1] during consideration of the independent offices appropriation bill, in the Committee of the Whole House on the state of the Union, Mr. William R. Wood, of Indiana, offered an amendment proposing a new paragraph:

To enable the United States Shipping Board Emergency Fleet Corporation to operate ships or lines of ships which have been or may be taken back from purchasers by reason of competition or other methods employed by foreign shipowners or operators, there is hereby reappropriated the unexpended balances of the appropriation of $10,000,000 made for similar purposes in the independent offices appropriation act for the fiscal year 1927: *Provided,* That no expenditures shall be made from this sum without the prior approval of the President of the United States.

A question of order being raised by Mr. Finis J. Garrett, of Tennessee, Mr. Wood cited, as authorizing the amendment, section 3 of the merchant marine act of 1920, as follows:

Whenever the head of any department, board, bureau, or agency of the Government refuses to suspend, modify, or annul any rule or regulation or make a new rule or regulation upon the request of the board as provided in subdivision (c) of paragraph 1 of this act or objects to the decision of the board with respect to the approval of any rule or regulation as provided in paragraph 2 of this act, either the board or the head of the department, board, bureau, or agency which has establish or attempted to establish the rule or regulation in question may submit the facts to the President, who is hereby authorized to establish or suspend, modify, or annual such rule or regulation.

The Chairman[2] ruled:

The gentleman from Indian contends that the statute cited carries with it the power to compel the President to pass on the question of expenditures. The Chair believes that there is nothing in the act cited carrying authority to warrant any party, either the Shipping Board or the contesting party, in carrying a question of dispute as to expenditure of any particular amount of money to the President of the United States. Therefore the Chair is forced to the conclusion that if the proviso is attached to the appropriation it will add to the duties of the Chief Executive, to wit, he must investigate every time there is a request for expenditure out of the $5,000,000, and his investigation must go into the question of whether it is wise to expend this amount of the appropriation. Therefore, it would add new duties to the Executive and devolve added burdens on him. The Chair therefore holds that the proviso is out of order, and is compelled to sustain the objection of the gentleman from Tennessee.

1688. An amendment incorporating with a limitation on an appropriation an affirmative direction to an executive is not in order on an appropriation bill.

A paragraph proposing legislation but permitted to remain in an appropriation bill may be perfected by germane amendments, but an amendment providing additional legislation is not in order.

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[1] Second Session, Sixty-ninth Congress, Record, p. 1675.

[2] James T. Begg, of Ohio, Chairman.

On December 12, 1922,[1] the State and Justice Departments appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Investigation and prosecution of war frauds: For the investigation and prosecution of alleged frauds, either civil or criminal, or other crimes or offenses against the United States, growing out of or arising in connection with the preparation for or prosecution of the late war, including the institution and prosecution of suits for the recovery of moneys which contains no element of fraud but arose incident to the investigation of alleged frauds, to be available for the employment of counsel and other assistants, rent, and all other purposes in connection therewith, whether in the District of Columbia or elsewhere, including not to exceed $100,000 for communications service, the purchase of furniture, law books of reference, and other necessary equipment and supplies at the seat of government, $500,000, to be expended in the discretion of the Attorney General: *Provided,* That this appropriation shall not be available for rent of building in the District of Columbia if suitable space is provided by the Public Buildings Commission: *Provided further,* That not more than one person shall be employed hereunder at a rate of compensation exceeding $10,000 per annum.

To the paragraph Mr. Eugene Black, of Texas, offered the following amendment:

Provided further, That the Attorney General shall report to Congress on or before the first day of its regular session, December, 1924, how the amount appropriated in this paragraph has been expended, specifying the names of person to whom paid and the amount paid to each. A similar report shall be made of the $500,000 appropriated at the second session of the Sixty-seventh Congress for the purposes named in this paragraph, except the names of special agents and detectives.

Mr. Robert Evans, of Nebraska, made the point of order that the amendment provided legislation on an appropriation bill.

The Chairman[2] said:

The paragraph in question appropriates certain sums of money for the investigation and prosecution of war frauds. It has a proviso that the appropriation shall not be available for rent, and so forth, and it is further provided that not more than one person shall be employed at a rate of compensation exceeding $10,000 per annum.

To that section the gentleman from Texas offers an amendment, as follows:

"*Provided further,* That the Attorney General shall report to Congress on or before the first day of the regulator session in December, 1924, how the amount appropriated in this paragraph has been expended, specifying the names of the persons to whom paid and the amounts paid to each. A similar report shall be made of the $500,000 appropriated at the second session of the Sixty-seventh Congress, for the purposes named in this paragraph, except the names of the special agents and detectives."

It has grown into a rule of the House, although the Chair believes it is not specifically stated in any rule, that limitations on appropriations may be made, the theory being, of course, that the body which makes an appropriation can make any proper limitation on its use.

The Chair can see in this particular language no limitation on the use of the money that it appropriates. How does it limit it? How does it in any way say now the money shall be spent or for what purpose or to what extent? It is not a limitation. The proviso in question are plainly provisos made as to some duties imposed on the Attorney General.

The point of order is made to it which I assume is made under the provision of clause 2 of Rule XXI, which provides:

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[1] Fourth session Sixty-seventh Congress, Record, p. 375.

[2] William J. Graham, of Illinois, Chairman.

"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, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

This proposed amendment does not do any of the things mentioned in clause 2 of Rule XXI. There is no retrenchment sought to be made by it or any reduction in the amount to be expended.

The thing that is required by the amendment is this: The Attorney General shall report to the Congress on or before the first day of its regular session certain things—that is, how the money appropriated by this section shall be expended, and, second, the Attorney General shall make a report about the $500,000 that was appropriated by a former act. These are reports not required by existing law. The Attorney General is not required to make reports on these matters except by the amendment, and therefore this amendment imposes substantive duties upon the Attorney General, and, of course, is new legislation.

Now, to meet that point the gentleman from Texas argues, and argues very well, that the original paragraph under which this amendment is offered was not in order if a point of order had been made against it because it contained new legislation, and therefore this particular amendment which he claims is germane, although it contains new legislation, would also be in order to that section.

The rule invoked by the gentleman from Texas is that in an appropriation bill a paragraph embodying legislation may be perfected by a germane amendment, even though the germane amendment itself contains legislation. It is conceded this is the law. However, it has been held on numerous occasions that this exception to the general rule does not permit an amendment which adds additional legislation—that is, legislation not comprehended by, or embraced within, the subject matter of the paragraph sought to be amended. To illustrate this principle the Chair cites Hinds' Precedents, paragraph 3836. In that case the Chair held—

"That if a paragraph has been included in the bill which has in it a taint of illegality or of being contrary to existing law, that paragraph can be corrected or perfected by an amendment; but if the further paragraph which is proposed as an amendment carries a further degree of illegality affecting the whole paragraph as amended, then it is not in order."

Again, in the same volume of Hinds, paragraph 3862, where a provision in the naval appropriations bill which provided for the construction of new battleships, one to be named the *Maine,* was under consideration, where an amendment was proposed to name one of the said battleships the *Missouri,* it was held that while it would have been permissible to strike out the word *Maine* and insert any other name, it was not permissible to so change the law as to name more than one ship. To a similar effect is a decision made by Chairman Dalzell, found in the same volume of Hinds, paragraph 3838:

"The substance of these rulings is that in an appropriation bill a paragraph embodying legislation may be perfected by a germane amendment, but that this does not permit an amendment which adds additional legislation."

If this is the parliamentary law there can be little doubt about what the ruling ought to be on this amendment. If the amendment were confined to requiring a report on the various items of appropriations contained in this paragraph it might be held to be in order, although that depends upon the question as to whether the original paragraph contains legislation, a point which has not been urged upon the Chair and upon which the Chair does not now express an opinion. But the amendment goes further and requires the Attorney General to report as to his expenditure of sums of money appropriated by a former act of Congress, and thus introduces new matter not covered by this pending bill in any way. It therefore does not come within the exception to the general rule forbidding legislation, and the Chair sustains the point of order.

1689. The limitation must be upon the appropriation and not an affirmative limitation of official functions.

The House may by limitation on a general appropriation bill provide that no part of an appropriation shall be used for a certain purpose.

An amendment forbidding use of an appropriation in dissemination of propaganda and ruled out of order because coupled with affirmative directions to officials was held to be in order when reoffered without the accompanying directions.

On January 12, 1923,[1] the independent offices appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

No part of the funds appropriated or made available in this act for the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation shall be expended for the preparation, printing, publication, or distribution of any newspapers, magazines, journals, or other periodicals, or for services in connection therewith, not including, however, the preparation and printing of documents and reports authorized and required to be issued by law.

To this paragraph Mr. Ewin L. Davis, of Tennessee offered an amendment:

After the word "law," insert a new paragraph, as follows:

"No part of the sums appropriated in this act shall be used for the preparation or dissemination of any propaganda, arguments, or statements in favor of or in opposition to the passage of proposed legislation, and no official or employee of the United States Shipping Board or United States Shipping Board Emergency Fleet Corporation shall, during office hours, engage in such work unless it be solely for the preparation of statements to be presented to a congressional committee or in response to requests from Members of Congress."

Mr. William R. Wood, of Indiana, made the point of order that the proposal was not a limitation but legislation.

The Chairman[2] ruled:

The language of the amendment is that—

"No part of the sums appropriated in this act shall be used for the preparation or dissemination of any propaganda, arguments, or statements in favor of or in opposition to the passage of proposed legislation; and no official or employee of the United States Shipping Board or United States Shipping Board Emergency Fleet Corporation shall, during office hours, engage in such work unless it be solely for the preparation of statements to be presented to a congressional committee or in response to requests from Members of Congress."

Now, if the amendment offered by the gentleman from Tennessee had been limited to the first proposition, namely: "No part of the sums appropriated in this act shall be used for the preparation or dissemination of any propaganda, arguments, or statements in favor of or in opposition to the passage of proposed legislation," it would be clearly in order under the rule. But a limitation on an appropriation bill must be to the appropriation and not an affirmative limitation to an official function. Such affirmative limitations of official function are proposed in the second part of the amendment. A part being obnoxious to the rule, the whole amendment must be declared out of order by the Chair, and therefore the Chair sustains the point of order.

The Committee of the whole having arisen and reported the bill back to the House with favorable recommendation, the bill was ordered to be engrossed and read a third time.

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[1] Fourth session Sixty-seventh Congress, Record, p. 1656.

[2] Clifton N. McArthur, of Oregon, Chairman.

Thereupon Mr. Davis proposed a motion to recommit as follows:

Mr. Davis, of Tennessee, moves to recommit the bill, H. R. 13696, to the Committee on Appropriations with instructions to report the same forthwith with the following amendment: At the end of the last paragraph insert a new paragraph, as follows:

"No part of the sums appropriated in this act shall be used in the preparation or dissemination of any propaganda, arguments, or statements in favor of or in opposition to the passage of legislation: *Provided,* That nothing herein contained shall prevent the preparation of data and statements solely for presentation at hearings of congressional committees or to Members of Congress in response to requests for such information."

Mr. Carl R. Chindblom, of Illinois, Having again raised the point of order, the Speaker pro tempore [1] held it to be a limitation and overruled the point of order.

1690. An amendment proposing an affirmative direction through use of a double negative, though in the form of a limitation, we held not to be in order on a general appropriation bill.

On May 29, 1924,[2] the legislative appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Salaries: Public Printer, $6,000; Deputy Public Printer, $4,500; for personal services in accordance with the classification act of 1923, $147,380; in all, $156,880.

Mr. Charles I. Stengle, of New York, proposed an amendment as follows:

Provided, That no part of this sum shall be paid to any individual who is not proven by a proper certificate that he is a practical printer with a knowledge of the art of bookbinding.

Mr. L. J. Dickinson, of Iowa, made the point of order that the amendment proposed legislation on an appropriation bill.

The Chairman [3] held:

The question is not by any means free from doubt; in fact, the previous decisions leave the Chair very much in doubt, and in many respects are conflicting. The gentleman from Tennessee has suggested that the fact that this is a limitation made it in order. There are, however, numerous decisions holding that in certain instances limitations are not in order, and those decisions have been based largely upon the fact that accompanying the limitation was an affirmative direction to be exercised by some officer, and that affirmative direction was a necessary part of the limitation. There are, however, other decisions which are not entirely in accord with that principle, holding that in such cases the amendment is not in order. The Chair, on the whole, thinks that the better rule is that where the limitation is accompanied by an affirmative direction which changes the existing law—and there can be no question but what this affirmative direction in this case does—the amendment is not in order. The Chair, therefore, sustains the point of order.

1691. The purpose rather than the form of a proposed limitation is the proper criterion by which its admissibility should be judged, and if its purpose appears to be a restriction of executive discretion to a degree that may be fairly termed a change in policy rather than a matter of administrative detail it is not in order.

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[1] Philip P. Campbell, of Kansas, Speaker pro tempore.

[2] First session Sixty-eighth Congress, Record, p. 9908.

[3] William R. Green, of Iowa, Chairman.

On January 8, 1925,[1] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Harry E. Hull, of Iowa, offered the following as a new paragraph:

No part of the moneys appropriated in this act shall be used to pay any officer to recruit the Army beyond the limit of 100,000 three-year enlisted strength.

Mr. Henry E. Barbour, of California, made the point of order that the amendment proposed a limitation on enlistments and not on appropriations and was therefore legislation.

The Chairman[2] said:

In the judgment of the chair, there is no adequate proof embodied in the amendment, or any necessary conclusion from the amendment, that there will be a reduction of expenditure. Therefore the Chair is unable to see that it complies in this regard with the second paragraph of Rule XXI, commonly known as the Holman rule. In the judgment of the Chair the amendment is submitted in the proper place, inasmuch as it immediately follows a paragraph of limitation, and as it has the form of an amendment of limitation.

The Chair hoped that he would not be confronted with this question of limitation, for he has never been able to satisfy himself that many of the limitations which have met the approval of presiding officers did really comply with the spirit and purpose of the Holman rule. The Chair wanted to avoid the appearance of presumption in taking issue with many of the able and learned gentlemen who have previously occupied this position. However, if anyone will examine the rulings on the subject he will find that various Chairmen have intimated that if they were coming to the question de novo they might not take the position that has prevailed. Therefore it may be fairly said that opinions differ and that if the question of limitation were to rise now for the first time another policy might be established.

However, the Chair is compelled to face one aspect of the issue at once and he feels that he could not satisfy his own judgment in the matter of limitations if he took the ground that a limitation of this sort is necessarily within the contemplation of the second paragraph of Rule XXI, or is of the class that has been so often permitted under the customary extension of its application. He believes he should look through the form to the purpose. So doing, he finds the purpose to be legislative, in that the intent is to restrict executive discretion to a degree that may be fairly termed a change in policy rather than a matter of administrative detail. For this reason he feels it incumbent on himself to sustain the point of order.

1692. While the House may by limitation deny an appropriation to recipients lacking certain qualifications, a professed limitation which by interdiction of certain qualifications restricts lawful executive action is not in order.

On January 31, 1925,[3] The independent offices appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

For salaries and expenses of the United States Tariff Commission, including purchase and exchange of labor-saving devices, the purchase of professional and scientific books, law books, books of reference, newspapers and periodicals as may be necessary, as authorized under Title VII of the act entitled "An act to increase the revenue, and for other purposes," approved September 8, 1916, and under sections 315, 316, 317, and 318 of the act entitled "An act to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, and

[1] Second session Sixty-eighth Congress, Record, p. 1497.

[2] Robert Luce, of Massachusetts, Chairman.

[3] Second session Sixty-eighth Congress, Record, p. 2818.

for other purposes," approved September 21, 1922, $712,000, of which amount not to exceed $569,980 may be expended for personal services in the District of Columbia: *Provided,* That no part of this appropriation shall be used to pay the salary of any member of the United States Tariff Commission who shall hereafter participate in any proceedings under said sections 315, 316, 317, and 318, of said act, approved September 21, 1922, wherein he or any member of his family has any special, direct, and pecuniary interest, or in which he has acted as attorney or special representative.

Mr. Carl R. Chindblom, of Illinois, made the point of order that the proviso was neither a limitation nor an exception coming within the Holman rule, and was therefore legislation not in order in an appropriation bill.

The Chairman [1] rules:

Having been informed in advance that a point of order would probably be made on this paragraph, the Chair took occasion to examine such of the precedents as he could find readily, and found only one that was directly in point, and that was the one last year,[2] when this provision was the subject of a point of order.

The Chair has taken occasion to read all the arguments pro and con in that case, and has come to the conclusion that the ruling of last year was made without opportunity for a thorough consideration of all the points that should have been covered in the discussion of the matter.

The first point that appeals to the Chair is that this is not a limitation upon an appropriation touching the qualifications of the members of the Tariff Commission, but is a restrictive limitation upon their participation in the proceedings of that commission.

If the limitation were simply as to the qualifications of the members of the commission providing that no member who owned any stock in any corporation which was being investigated could be a member of the commission it would be in accord with a long line of precedents in this House, but it is not directed to the qualifications of those who are to receive the appropriation. It says:

"That no part of this appropriation shall be used to pay the salary of any member of the United States Tariff Commission who shall hereafter participate in any proceedings under said section"—
enumerating them—
"* * * wherein he or any member of his family has any special, direct, and pecuniary interest, or in which he has acted as attorney or special representative."

It seems to the Chair that instead of being a limitation of the appropriation it in effect limits the participation of a commissioner in the lawful proceedings of the commission, under the penalty of losing his salary.

There is this additional point that appeals to the Chair, namely, the additional duties that are imposed upon an executive officer, the Comptroller General. As was pointed out in the discussion the Comptroller General, before he can safely pay the salary of any one of these commissioners, must find out and satisfy himself that such member has no interest and that no member of his family has any special, direct, and pecuniary interest in, or that he has acted as attorney or special representative for any of the corporations investigated. The imposition of additional duties upon an executive is in effect legislation.

The Chair expresses no opinion as to the legislation itself. The legislative committees of this House are open at all times for the consideration of proper legislation in regard to these matters. It seems to the Chair that it would be a dangerous precedent, and one that would tend to involve us in the mazes of rider legislation on appropriation bills, to admit over a point of order language of this kind on an appropriation bill. Therefore, the Chair sustains the point of order.

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] See sec. 1701 of this work.

1693. While a limitation may negative an activity, limitation on the discretion of an executive charged with duties of administration is legislation.

Provision that pneumatic-mail service be not extended to cities other than those under contract was held to limit the discretion of the Postmaster General and to be legislation within the meaning of the rule.

On March 12, 1908,[1] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a provision was read relating to the pneumatic-tube service.

To this provision Mr. Joseph T. Johnston, of South Carolina, made a point of order.

The Chairman[2] inquired:

The Chair would ask if the Postmaster General now has authority to institute pneumatic-tube service in any city under the provision of law the gentleman has just quoted—whether this bill does not change his authority and limit him to certain cities? The item in the bill does not purport to be a limitation on the appropriation.

Mr. Jesse Overstreet, of Indiana, replied:

The first proviso does undoubtedly prohibit him from installing the service in any other cities than those named.

The Chairman said:

That would be a limitation upon his authority. It seems to the Chair if he has authority now, that would be a change of law, because it does not purport to be a limitation on this appropriation. The paragraph under consideration to which a point of order has been made is the provision relating to the pneumatic-tube service.

"Provided, That said service shall not be extended in any cities other than those in which the service is now under contract under authority of Congress, except the borough of Brooklyn, of the city of New York, and the cities of Baltimore, Md., Cincinnati, Ohio, Kansas city, Mo., Pittsburgh, Pa., and San Francisco, Calif."

If that proviso is subject to the point of order, the paragraph containing it is subject to the point of order. If the Postmaster General does not now have authority, the item would probably be subject to the point of order.

The gentleman from Indiana informs the chair, quoting the statute, that the Postmaster General now has authority to extend the pneumatic-tube service anywhere in the country under certain conditions and regulations. This item would limit and affect the Postmaster General's authority, and does not purport to be a limitation upon the appropriation, but purports to change the existing authority, if any, which the Postmaster General now has to extend the pneumatic-tube service, and hence is a change of the existing law. For that reason the Chair must sustain the point of order.

1694. While a limitation may not involve change of existing law or affirmatively restrict executive discretion, it may properly effect a change of administrative policy and still be in order.

An amendment denying funds for the support of any compulsory military course or for the pay of officers at any school where such course was maintained was held to be a proper limitation.

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[1] First session Sixtieth Congress, Record, p. 3219.

[2] James R. Mann, of Illinois, Chairman.

On January 15, 1931,[1] the Army appropriation bill was being considered in the Committee of the Whole House on the state of Union, when Mr. Fiorello H. LaGuardia, of New York, offered the following amendment:

Provided further, That none of the funds appropriated in this act shall be used for or toward the support of any compulsory military course or military training in any civil school or college, or for the pay of any officer, enlisted man, or employee at any civil school or college where a military course or military training is compulsory, but nothing herein shall be construed as applying to essentially military schools or colleges.

Mr. Henry E. Barbour, of California, made the point of order that the amendment, while in the form of a limitation, proposed to restrict executive discretion.

The Chairman[2] ruled

The amendment offered by the gentleman from New York is in the form of a negative limitation. It is assumed that it is now authorized by law to appropriate for compulsory military courses or military training in civil schools or colleges. It is also authorized by law to pay an officer, an enlisted man, or an employee at a civil school or college where military training or courses are compulsory. The Chair is unable to find any affirmative direction in this amendment. In effect, it simply refuses to appropriate for purposes which are authorized by law and for which Congress may or may not appropriate as it may see fit. The Chair is constrained to overrule the point of order, because he is unable to find any affirmative direction or any limitation of authority of an executive officer other than a refusal to appropriate for certain purposes for which there is authority of law and for which Congress has heretofore appropriated. It does to a certain extent change a policy of the War Department, but the Chair believes that a change of policy can be made by the failure of Congress to appropriate for an authorized object. The Chair therefore overrules the point of order.

1695. Provision that no money appropriated in the pending bill be used in purchase of American goods when known to the Secretary that they were sold abroad at a lower price than in America was held to be a limitation and not legislation.

On March 21, 1908,[3] the fortifications appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

That all material purchased under the foregoing provisions of this act shall be of American manufacture, except in cases when, in the judgment of the Secretary of War, it is to the manifest interest of the United States to make purchases temporarily abroad, which material shall be admitted free of duty, as shall other similar material furnished without charge.

Mr. Gilbert M. Hitchcock, of Nebraska, offered an amendment:

Provided, No money appropriated in this bill shall be used in payment of goods of American manufacture when it shall be made known to the Secretary of War that the same are sold abroad for lower prices than in America.

Mr. James A. Tawney, of Minnesota, made the point of order that the amendment, while in the form of a limitation, in fact proposed a change of law.

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[1] Third session Seventy-first Congress, Record, p. 2262.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] First session Sixtieth Congress, Record, p. 3732.

The Chairman [1] ruled:

The Chair, after examining the amendment carefully and receiving advice [2] which no one can dispute is ready to rule. The amendment provides that no money appropriated in this bill shall be used in the payment for goods of American manufacture when it shall be made known to the Secretary of War that the same are sold abroad for lower prices. It seems to the Chair that that can be construed in no other way than a limitation, and consequently the Chair will overrule the point of order.

1696. A proposition to restrict administrative functions vested in an executive by law is legislation and is not in order as a limitation.

Contravening a statute directing the purchase of supplies from the lowest bidder, an amendment prohibiting purchase of such supplies produced outside of the United States was rule out of order.

On January 14, 1929,[3] during consideration of the War Department appropriation bill, in the Committee of the Whole House on the state of the Union, Mr. Charles L. Gifford, of Massachusetts, offered the following amendment:

No appropriation contained in this act shall be available for the purchase of materials or supplies manufactured or assembled without the territorial limits of the United States, its Territories or possessions, except (1) supplies or materials purchased in foreign countries for use locally; (2) patented articles or models and devices purchased in foreign countries for experimental and research purposes; (3) foreign aircraft, parts, and accessories as authorized by the act of July 2, 1926; and (4) supplies and materials not produced or manufactured within the United States, its Territories and possessions; or such supplies and materials as are not produced there in sufficient quantity to meet domestic requirements.

Mr. Henry E. Barbour, of California, raised a question of order and cited the act of March 2, 1901,[4] as follows:

That hereafter, except in cases of emergency or where it is impracticable to secure competition, the purchase of all supplies for the use of the various departments and posts of the Army and of the branches of the Army service shall only be made after advertising and shall be purchased where the same can be purchased the cheapest, quality and cost of transportation and the interests of the Government considered

The Chairman [5] said:

The Chair is influenced by the argument made by the gentleman from California that this imposes new obligations or duties upon an executive officer.

Mr. Gifford interrupted:

Will the Chair permit to make just one further remark? In my amendment we take off or subtract from his duties. He does not have to determine quality or price. There is less for him to determine than before, and it does not add anything.

The Chairman concluded:

The gentleman from Massachusetts has given away the strongest point in his case. The gentleman makes the very point the Chair has been diligently searching for.

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[1] Adin B. Capron, of Rhode Island, Chairman.

[2] Asher C. Hinds, clerk at the Speaker's table.

[3] Second session Seventieth Congress, Record, p. 1696.

[4] Sec. 201, p. 214, U.S. Code.

[5] John Q. Tilson, of Connecticut, Chairman.

As a matter of fact, the amendment does seem to liberalize the law and, as the Chair sees it, the effect of the amendment offered in the form of a limitation would be to require on the part of executives of the Government something which would not be required of them if this were not passed. It therefore changes their duties and the law to that extent and therefore, in the opinion of the Chair, is a change of existing law.

The Chair sustains the point of order.

1697. An amendment inhibiting the use of an appropriation for the purchase of commodities not produced in the United States was held in order as a limitation.

On January 18, 1930,[1] during consideration of the Treasury and Post Office appropriation bill, in the Committee of the Whole House on the state of the Union, a paragraph providing for the transportation of foreign mails was read.

Mr. Wright Patman, of Texas, offered the following amendment:

Provided however, That no part of this appropriation shall be used to purchase twine made of jute or any other commodity not produced in the United States of America.

Mr. William H. Stafford, of Wisconsin, made the point of order that the amendment proposed legislation.

The Chairman[2] ruled:

The Chair desires to call the attention of the committee to a decision which was rendered by Chairman Dingley in 1896:

"The House in 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. 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."

When we were considering the Army appropriation bill in January, 1929, the gentleman from New York, Mr. LaGuardia, offered an amendment to the appropriation bill providing that no money should be paid to any officer or enlisted men on the retired list of the Army who was in the employ of the United States and whose salary exceeded $2,500 per annum. That amendment was held in order as a limitation. The gentleman from Connecticut, Mr. Tilson, was in the chair, and his decision[3] is as follows:

"The amendment offered by the gentleman from New York seems to the Chair clearly a limitation, and a proper limitation from a parliamentary standpoint. It refers only to the money appropriated in this bill and limits the purposes for which this money may be expended. The Chair overrules the point of order."

The present occupant of the chair thinks that amendment before the committee at the present time is entirely "on all fours" with the amendment which was offered last year to the Army appropriation bill, and the Chair overrules the point of order.

1698. Provision that an appropriation be not available for any naval district unless its commandant be also commandant of a navy year was held to be a negative prohibition on the use of money and not an affirmative direction to an executive.

On April 26, 1921,[4] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph

[1] Second session Seventy-first Congress, Record, p. 1917.

[2] Bertrand H. Snell, of New York, Chairman.

[3] See sec. 1669 of this work.

[4] First session Sixty-seventh Congress, Record, p. 667.

was reached providing appropriation for miscellaneous pay and including the following proviso:

Provided, That no part of this appropriation shall be available for the expense of any naval district unless the commandant thereof shall be also the commandant of a navy yard, naval training station, or naval operating base.

Mr. John I. Nolan, of California, made a point of order against this proviso on the ground that it was legislation and not a limitation.

The Chairman [1] said:

The gentleman from California makes the point of order on the proviso reading as follows:

"Provided, That no part of this appropriation shall be available for the expense of any naval district unless the commandant thereof shall be also the commandant of a navy yard, naval training station, or naval operating base."

He submits that that language is legislation upon an appropriation bill, and therefore in violation of the rule of the House inhibiting that.

The language seeks to limit the appropriation contained in the paragraph for the expenses of naval districts, and provides a negative prohibition against the use of money for naval districts in that the money shall not be available unless the commandant of the district shall also be the commandant of a navy yard, naval training station, or naval operating base.

It is well settled by precedent that a limitation upon an appropriation must be in effect a negative prohibition on the use of the money, and not an affirmative direction to the executive officer. It seems to the Chair that the language contained in this proviso is a negative prohibition against the use of this appropriation, in that it is not to be available unless the commandant of the district in which the money is to be expended is also the commandant of a navy yard, naval training station, or naval operating base, and that it is not an affirmative direction to the officer, and, because the matter of naval districts is a matter of naval regulation and not of specific statute it is not a change of existing law, although in apparent conflict with a matter covered by regulations of the Navy. The Chair, therefore, overrules the point of order.

1699. The House may provide that no part of an appropriation shall be used in a certain way, even though executive discretion by thereby negatively restricted.

In the absence of statutory provision to the contrary, an amendment prohibiting use of an appropriation for the purchase of headstones other than stones of a specified design was held to be in order as a limitation.

On March 14, 1924,[2] the deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

For furnishing and erecting headstones for the graves of American soldiers in Europe, $548,550, to remain available until expended.

Mr. John Philip Hill, of Maryland, offered this amendment:

After the word "expended," insert: *Provided,* That none of the money so appropriated shall be expended except for headstones or markers to be placed upon the graves in the American military cemeteries overseas, which shall be of the same general form and design and having the same general effect as the existing wooden markers."

Mr. Martin B. Madden, of Illinois, raised a point of order against the amendment on the ground that it proposed legislation.

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[1] Joseph Walsh, of Massachusetts, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 4224.

The Chairman [1] held:

The Chair has examined the amendment submitted by the gentleman from Maryland and finds it is a limitation. There is an appropriation here in this item of $548,550 for erecting headstones upon the graves of American soldiers in Europe. Now, this amendment limits the expenditure of this appropriation to headstones of a certain general description, and consequently it is only a limitation upon the appropriation, provided if with the limitation added it does not alter existing law. The national cemetery act is not the act under which cemeteries in Europe are established, and its provisions do not pertain to these cemeteries, but the act which is chapter 120, second session, Sixty-seventh Congress, the act read by the chairman of the committee, is the act that applies. That act contains no provision whatsoever on the character of headstones or markers to be used. Consequently the point of order is overruled.

1700. A limitation negatively restricting executive discretion was held to be in order on an appropriation bill.

A point of order having been made and overruled, it is in order thereupon to submit a further point of order.

To a paragraph providing pay for the Navy, an amendment relating to expenses of recruiting was held not germane.

On March 20, 1924,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the paragraph providing an appropriation for pay of the Navy.

To the pending paragraph Mr. Tom Connally, of Texas, offered this amendment:

Provided, That no part of the funds appropriated by this act shall be utilized for the recruiting or enlistment of boys under 21 years without the written consent of the parents or guardians if any, of such boys to their enlistment.

Mr. Burton L. French, of Idaho, made the point of order that the amendment proposed to limit executive discretion and was therefore not in order as a limitation.

The Chairman ruled: [3]

It covers the expenses of men who do the recruiting and, therefore, it seems to the Chair it would not be germane to this particular section. That point, however, is not raised thus far and the question is whether this is a limitation or is not a limitation.

What does it do? It provides that no part of the funds appropriated by this act shall be utilized for recruiting or enlistment of boys under the age of 21 years, without the written consent of the parent or guardian. It provides that no part of this money shall be used for that purpose. Suppose the amendment had provided that no part of it should be used for the support of men or officers in Porto Rico or anywhere else. Suppose it provided that no part of the funds might be used in paying for certain specified services. Such amendments would be concededly proper limitations. The Congress can place any necessary limitations on the expenditures of money that it desires as long as it does not create new administrative duties on the part of executive officers. That is the rule, as the Chair understands it. What new duty does this create? The officer can do this or not do it as he pleases. He has no additional duties imposed upon him. Therefore, it seems to the Chair that under a reasonable construction it is a limitation.

The gentleman from Ohio, Mr. Longworth, while Chairman of the Committee of the Whole House on the state of the Union on the Army bill of 1922, in ruling on practically the same amendment, used the following language:

"The Chair is quite clear that the amendment is a limitation, especially in view of recent rulings by several chairman. I recall that the first time question was discussed in my hearing

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[1] Frederick R. Lehlbach, of New Jersey, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 4603.

[3] William J. Graham, of Illinois, Chairman.

an amendment was offered by the gentleman from Kentucky, Mr. Fields, on the Army appropriation bill, depriving certain Army officers of pay if they did certain acts in social relation with regard to privates and other officers, and the Speaker sustained the amendment. The point of order is overruled."

The Chair, both on principle and following precedent, overrules the point of order.

Whereupon Mr. French made the point of order that the amendment was not germane to the paragraph.

Mr. Cassius C. Dowell, of Iowa, submitted that the second point of order came too late.

Pending a decision on the question raised by Mr. Dowell, the committee rose and the Chairman reported that the committee had come to no resolution.

On the following day, the committee having resumed its session, the Chairman said:

When the committee rose on yesterday a point of order had been made to an amendment offered by the gentleman from Texas; a point of order had been made by the gentleman from Idaho, and also one by the gentleman from Ohio, Mr. Begg, the ground in each case being that the amendment was not germane to the section. The question then arose whether a point of order could be made at that time after the former point of order made by the gentleman from Idaho had been overruled.

The Chair has looked into the precedents a little about the matter, and while he announced tentatively yesterday that he though the point of order could be made, he was not entirely sure of his ground. He has looked somewhat at the authorities. In the fifth volume of Hinds' Precedents, page 935, is a decision made by the Hon. Harry S. Boutell, of Illinois, the Chairman of the Committee of the Whole. It seems to be the only decision in point on that particular subject.

I will read the decision as it appears in Hinds' Precedents:

"The Chair will state that he considers the better practice for all points of order to be made at one time. The Chair thinks that if one makes the point of order against an amendment which should be overruled that other gentleman have the right to raise points of order against the pending amendment. * * * The Chair stated that the gentleman making the point of order should, according to the best usage, include all the reasons for making his point of order, but that other gentlemen could make other points of order if the Chair overruled the point first made."

In view of that decision, which the Chair thinks is sound, the Chair will entertain the point of order made by the gentleman from Ohio, Mr. Begg, that the amendment is not germane.

After further debate, the Chairman ruled:

The amendment offered by the gentleman from Texas is as follows:

"*Provided,* That no part of the funds appropriated by this act shall be utilized for the recruiting or enlistment of boys under the age of 21 years without the written consent of the parents or guardians, if any, of such boys for such enlistment."

The particular language to which the Chair desires to call attention is this: "For the recruiting or enlistment." The question is whether that is germane to the paragraph just read. The paragraph which has been read provides for the pay of officers and men some of whom, doubtless, are engaged in the business of recruiting. The amendment, however, does not allude specifically to the pay of officers and men but to the expenses of recruiting. The paragraph beginning on page 9, headed "Bureau of Navigation, transportation and recruiting," contains the following language, which appears on page 10:

"Expenses of recruiting for the naval service."

Now, manifestly, this amendment alludes to that same thing, namely, the expenses of recruiting. The Chair is of the opinion that if this amendment is germane it should have been offered to that paragraph. It does not refer to the pay of officers and men, but refers to the expenses of recruiting, which are expressly carried in the paragraph. For the reason the Chair sustains the point of order.

1701. By a decision subsequently overruled[1] a provision denying use of an appropriation in payment of salary of members of Tariff Commission participating in proceedings preliminary to establishing duties in which they have a personal interest, thereby indirectly restricting executive functions, was held to be in order.

On April 3, 1924,[2] the independent offices appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

For salaries and expenses of the United States Tariff Commission, including purchase and exchange of labor-saving devices, the purchase of professional and scientific books, law books, books of reference, newspapers, and periodicals as may be necessary, as authorized under Title VII of the act entitled "An act to increase the revenue, and for other purposes," approved September 8, 1916, and under sections 315, 316, 317, and 318 of the act entitled "An act to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, and for other purposes," approved September 21, 1922, $671,980.

Mr. Homer Hock, of Kansas, offered this amendment:

Provided, That no part of this appropriation shall be used to pay the salary of any member of the United States Tariff Commission who shall hereafter participate in any proceedings under said sections 315, 316, 317, and 318 of said act approved September 21, 1922, wherein he or any member of his family has any special, direct, and pecuniary interest or in respect to the subject matter of which he has acted as attorney, legislative agent, or special representative.

Mr. William R. Wood, of Indiana, made the point of order that the amendment proposed to legislate by restriction of executive action.

The Chairman[3] ruled:

It seems to the Chair that this amendment is similar to other amendments which have been offered to appropriation bills. It appears to him that it is a limitation and that the amendment does not change organic law. He has listened with interest to what the gentleman from Indiana has said in connection with the phrase "who shall hereafter participate in any proceeding under said section," and the Chair thinks that it does not change existing law but refers particularly to the appropriation carried in this bill. If some expression similar to the word "hereafter" should not be inserted, it might be considered to be retroactive; that is, prevent some one who has already served under such conditions from receiving his salary. The Chair has examined a number of precedents, and they seem to substantiate his view. The Chair therefore overrules the point of order.

1702. A limitation must apply solely to the current appropriation and may not be admitted as a permanent provision of law.

A proposition to limit range of materials purchasable under an enactment is not a limitation on an appropriation and involves legislation, but may be admitted in the form of a provision denying use of an appropriation for purchase of specified materials.

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[1] See sec. 1692 of this work.

[2] First session Sixty-eighth Congress, Record, p. 5529.

[3] Carroll B. Reece, of Tennessee, Chairman.

On February 19, 1909,[1] the fortification appropriation bill was under consideration in the Committee of the Whole House of the State of the Union. At the conclusion of the reading of the bill, Mr. Walter I. Smith, of Iowa, offered the following amendment:

That all material purchased under the foregoing provisions of this act shall be of American manufacture, except in cases when, in the judgment of the Secretary of War, it is to the manifest interest of the United States to make purchases in limited quantities abroad.

Mr. Robert B. Macon, of Arkansas, made the point of order that the amendment provided legislation.

The Chairman[2] decided:

It seems to the Chair that the intent of the amendment is clearly to be a limitation, but that it is not in the usual form for such purpose. Therefore it occurs to the Chair that the gentleman should put his amendment in such a form as to state no part of the appropriation should be so used, and so forth. The Chair sustains the point of order.

Thereupon Mr. Smith proposed the amendment in this form:

Provided, That no money appropriated by this act shall be expended except for goods of American manufacture, save in cases where, in the judgment of the Secretary of War, it is to the manifest interest of the United States to make purchases in limited quantities abroad.

Mr. Macon having again interposed a point of order, the Chairman held:

The Chair is of the opinion that is clearly a limitation on the power of the President to expend money which the House might withhold entirely. Therefore, the Chair overrules the point of order.

1703. A proposition designating the object or manner of an expenditure is legislation and not in order on an appropriation bill, but a proposal to deny use of such appropriation for a designated purpose is a proper limitation.

An amendment providing that 50 per cent of an appropriation should not be available except for repairs of vessels at Government shipyards was ruled out of order, but an amendment denying the use of more than 50 per cent of the appropriation for repair of vessels in private shipyards was admitted as a limitation.

On January 12, 1927,[3] the Committee of the Whole House on the state of the Union was considering the independent offices appropriation bill.

During consideration of the paragraph providing for activities of the United States Shipping Board Emergency Fleet Corporation, Mr. Henry A. Cooper, of Wisconsin, offered an amendment in this form:

Provided, That 50 per cent of the moneys appropriated or made available in this act for the United States Shipping Board Emergency Fleet Corporation for the conditioning or repair of vessels shall not be available except for the reconditioning or repair of such vessels at Government navy yards.

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[1] Second session Sixtieth Congress, Record, p. 2753.

[2] Charles E. Townsend, of Michigan, Chairman.

[3] Second session Sixth-ninth Congress, Record, p. 1530.

Mr. Schuyler Otis Bland, of Virginia, having made a point of order against the amendment, the Chairman [1] sustained the point of order and said:

This is a positive direction as to the disposition of 50 per cent of the proceeds of this appropriation, and hence it is legislation, and the Chair will sustain the point of order.

Whereupon, Mr. Cooper offered the proposition in the following form:

Provided, That not more than 50 per cent of the moneys appropriated or made available in this act for the United States Shipping Board Emergency Fleet Corporation for the reconditioning or repair of vessels shall be available for the reconditioning or repair of such vessels in private shipyards.

Mr. Bland having again raised a point of order, the chairman overruled the point of order and said:

In the last amendment the gentleman provides that no more than 50 per cent of the total appropriation shall be expended in a private shipyard. The present occupant of the chair can see no legislation in that. It is entirely within the discretion of the committee to direct where it will be expended. The Chair therefore overrules the point of order.

1704. An amendment couched in the language of a limitation but controlling executive discretion is legislation and is not in order on a general appropriation bill.

Provision that no part of an appropriation be used in payment of employees receiving less than a specified salary was held not to be a limitation on the appropriation but a restriction on discretion vested in those authorized to fix salaries and therefore not in order.

On February 24, 1911,[2] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was read:

Pay of assistant custodians and janitors: For pay of assistant custodians and janitors, including all personal services for the care of all public buildings under control of the Treasury Department outside of the District of Columbia, and washing towels, sprinkling streets, and removing rubbish in connection with said buildings, exclusive of marine hospitals, mints, branch mints, and assay offices, $2,500,000; and the Secretary of the Treasury shall so apportion this sum as to prevent a deficiency therein.

To the paragraph Mr. James H. Davidson, of Wisconsin, offered the following amendment:

Provided, That no part of this appropriation shall be paid to the janitors of public buildings who receive a salary of less than $65 per month.

Mr. Walter I. Smith, of Iowa, raised a question of order against the amendment.

The Chairman [3] ruled:

It seems to the Chair that the manifest purpose of this amendment is to control the discretion at present vested in the officer who fixes the salaries of janitors by fixing the minimum amount of the salary at $65 per month. If enacted into law, it would be construed naturally as requiring the payment of that salary, which is higher than is now required by law, thus

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[1] James T. Begg, of Ohio, Chairman.

[2] Third session Sixty-first Congress, Record, p. 3343.

[3] Marlin E. Olmsted, of Pennsylvania, Chairman.

changing existing law. It is therefore in violation of the provision of section 2 of Rule XXI, which says:

"Nor shall any provision changing existing law be in order in any general appropriation bill or in any amendment thereto."

The Chair sustains the point of order.

1705. The language of limitation prescribing the conditions under which the appropriation may be used may not be such as, when fairly construed, would change existing law.

On December 29, 1922,[2] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The section relating to Indian schools having been reached, Mr. Bill G. Lowey, of Mississippi, offered this amendment:

Except in fulfillment of treaty obligations, no money appropriated by this bill shall be used to improve, enlarge, or in any way maintain any school owned or controlled by any religious denomination or organization. This, however, shall not be construed to forbid to any Indian to right to have his pro rata of tribal funds used to pay expense of a pupil in a school of his choice.

Mr. Louis C. Cramton, of Michigan, raised a question of order on the amendment.

The Chairman[3] ruled:

As has been well stated by the gentlemen who have spoken regarding the point of order, the first part of this amendment is practically a limitation and within the rule. The difficulty in the mind of the Chair arises with regard to the last sentence, as follows:

"This, however, shall not be construed to forbid to any Indian the right to have his pro rata of tribal funds used to pay expense of a pupil in a school of his choice."

That proposition, attached to the statement of the amendment, in the judgment of the Chair raises a question as to its being in order, and I think the Chair should rule that an amendment of that sort should not be held in order. I think it would establish a dangerous precedent if the Chair should do so, because while it is stated here by gentlemen that this is not a change of existing law, the Chair does not know that, and the committee does not know that. As it is evident that the form of the amendment as a whole is very obscure, the Chair sustains the point of order.

1706. Where a proposition might reasonably be construed by an executive as a change of law it is not in order as a limitation on an appropriation bill.

To be admissible on an appropriation bill a limitation may not include affirmative directions imposing additional duties on executives.

A limitation may not give affirmative directions, impose new duties, or be accompanied by language not directly limiting the appropriation.

Discussion of professed limitations accompanied by the words "unless," "except," "until," "if," and "however."

On January 6, 1923,[3] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

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[1] Fourth session Sixty-seventh Congress, Record, p. 1071.

[2] Horace M. Towner, of Iowa, Chairman.

[3] Fourth session Sixty-seventh Congress, Record, p. 1385.

For compensation of jurors, $10,000: *Provided,* That none of the money appropriated by this act for the payment of jurors' fees in any of the courts shall be available or used for that purpose unless the actual cost of the trial jury in each case first be ascertained and fixed by the court and taxed as part of the costs and judgment rendered therefor against the defendant in a criminal case against whom a verdict of guilty has been rendered; nor shall any such money be available or used for that purpose until execution has been issued and a return of nulla bona thereon has been made by the proper officer. Neither shall any of the money appropriated by this act for the payment of juror's fees be disbursed or used to pay any jurors' fees whatsoever unless the actual cost of the trial jury be ascertained and fixed by the court and taxed as costs and judgment rendered therefor against the defendant where either the United States or the District of Columbia is plaintiff, and the defendant is unsuccessful in the suit. However, no person shall be imprisoned because of the nonpayment of the aforementioned costs.

Thereupon Mr. John Philip Hill, of Maryland, raised a question of order against the proviso incorporated in the paragraph.

After debate on the point of order and before a decision had been announced by the chairman, the committee rose and reported that no resolution had been reached on the pending bill.

On January 8,[1] the House again resolved into the Committee of the Whole for the consideration of the bill and, after further debate, the Chairman[2] rules:

The Chair, realizing the importance of this ruling due to the precedent it may establish, has given no little thought to it. The Chair is cognizant of confusion in the rulings in cases somewhat akin to this one, and realizes that in considering questions of limitations as in determining questions of germaneness there is considerable latitude between what is clearly permissible and what is as clearly repugnant to the rule. The Chair feels that in traversing this twilight zone he is justified in leaning toward the side of conservatism in regard to admission of legislation on appropriation bills. In the last few years there has been a very perceptible increase in the amount of legislative provisions incorporated in bills reported by the Appropriations Committee. The growth of this practice, in the opinion of the Chair, is unwise and is not warranted by the rules or procedure of the House. It is probably due to the fact that, as formerly many of the standing committees had jurisdiction over both appropriations and legislation, a clear distinction of these separate functions was not made in the bills reported, which left the Appropriations Committee in the position of finding that many of the items for which it desired to appropriate were unauthorized. This made it incumbent upon the Appropriations Committee, in order to carry on its work, to devise these legislative limitations.

Under our rules the Committee on Appropriations can consider only questions of appropriations, the subjects of legislation and authorization being confined to the jurisdiction of standing committees constituted for that very purpose and equipped with facilities to conduct investigations. Feeling that each committee should be held strictly to the consideration of its own particular work, the Chair is of the opinion that too much latitude has been given in the employment of limitations, and that the practice of resorting to this method of securing, in an indirect way, legislation on appropriation bills has been abused, and extended beyond the intention of the rule. The Chair is therefore constrained to take the view that we should restrict rather than enlarge, limit rather than expand, the power of the Appropriations Committee in placing legislation upon appropriation bills.

The Chair asks the indulgence of the committee in making some observations on this mooted subject of limitations, and in doing so desires to thank the able parliamentarian for his assistance and suggestions.

Since Congress has the right to appropriate, Congress has the right to refuse to appropriate, even though the appropriation is authorized, and this may be done in two ways: First, by not appropriating for a certain purpose at all, and second, by denying the use of a part of an appropria-

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[1] Record, p. 1422.

[2] Frederick C. Hicks, of New York, Chairman.

tion for a certain purpose. This is the principle on which the theory of limitations is grounded and should always be kept in mind in construing a limitation.

To use the illustration of the late James R. Mann, of honored memory, Congress, having the right to appropriate for red-headed men, may specifically deny the use of an appropriation for the payment of red-headed men. Therefore, while it is not in order to require the employment of red-headed men or even the payment of red-headed men, it is in order to deny the use of an appropriation for the payment of red-headed men, even though existing law permits the employment and payment of red-headed men.

But the misapplication and the difficulty in construing the rule has occurred when a limitation is accompanied by something additional in the nature of a further limitation or restriction.

For example, there is no difficulty in the following provision: "No part of this appropriation may be expended in the payment of red-headed men."

But take the following proposition: "No part of this appropriation may be used for the payment of any persons except red-headed men."

In construing the last example it is necessary for the Chair to look to the effect rather than to the form. Does the language merely deny the use of the appropriation or does it go further and require the employment of red-headed men? If existing law does not authorize the employment of red-headed men, or expressly prohibits the employment of red-headed men, the language clearly becomes not a limitation but becomes legislation making an appropriation for an unauthorized purpose and in addition proposes legislation permitting the employment of red-headed men contrary to existing law. But if the law authorizes the employment of red-headed men the language merely becomes explanatory of the recipient of the appropriation, and is in fact merely an appropriation for a certain purpose. Therefore, as a test in determining the legality of such language, the Chair may properly ask himself this question: "Would it be in order to make a direct appropriation for this purpose instead of denying the use of this appropriation except for the specified purpose?" If the question could be answered in the affirmative this particular class of limitations would be in order.

Approaching the point of order now before us, in the consideration of which the merits of the propositions are not under review, the Chair will cite a number of precedents that bear on the subject of limitations, quoting from Hinds' Precedents:

"No. 3931. Legislation may not be proposed under the form of a limitation.

"No. 3976. The language of limitation prescribing the conditions under which the appropriation may be used may not be such as, when fairly construed, would change existing law.

"No. 3812. The enactment of positive law where none exists is constructed as a 'provision changing existing law,' such as is forbidden in an appropriation bill.

"No. 3967. A limitation is negative in its nature and may not include positive enactments establishing rules for executive officers.

"No. 3854. A proposition to establish affirmative directions for an executive officer constitutes legislation and is not in order on a general appropriation bill. Also a ruling of Chairman Towner, April 15, 1920

"Chairman Crisp, March 11, 1916: Limitations must not impose new duties upon an executive officer.

"No. 3984. Where a proposition might be construed by the executive officer as a modification of a statute, it may not be held as such a limitation of appropriation as is permissible on a general appropriation bill.

"No. 3927. A limitation may be attached only to the money of the appropriation under consideration and may not be made applicable to moneys appropriated in other acts.

"No. 3957. The limitation must be upon the appropriation and not an affirmative limitation of official functions.

"No. 3966. Limitations which directly, or indirectly, vest in any executive officer any discretion, or impose any duty upon the officer, or indirectly, in the expenditure of money, would be obnoxious. But (No. 3968) the House may provide that no part of an appropriation shall be used in a certain way even though executive discretion be thereby negatively restricted.

"No. 3936. A provision proposing to construe existing law is in itself a proposition of legislation and, therefore, not in order on an appropriation bill as a limitation.

"No. 3936. The fact that a paragraph on an appropriation bill would constitute legislation for only a year does not make it admissible as a limitation.

"No. 3936. As an appropriation bill may deny an appropriation for a purpose authorized by law, so it may by limitation prohibit the use of money for part of the purpose while appropriating for the remainder of it.

"No. 3929. A limitation must apply solely to the present appropriation and may not be made as a permanent provision of law.

"No. 3942. While it is not in order to legislate as to qualifications of the recipients of an appropriation, the House may specify that no part of the appropriation shall go to recipients lacking certain qualifications."

In section 3935 of Hinds' Precedents is a ruling by Speaker Cannon, which has been referred to and which the Chair feels covers the point under consideration. The language is clear and specific, and in view of Mr. Cannon's approaching retirement from Congress after a long and distinguished career, the Chair is glad to refer to it in this instance:

"The merits of the proposition are not involved in the point of order. What is the object of the motion and of the instruction? If is does not change existing law, then it is not necessary. If it does change existing law, then it is subject to the point of order. Much has been said about limitation; and the doctrine of limitation is sustained upon the proposition under the rule that, as Congress has the power to withhold every appropriation, it may withhold the appropriation upon limitation. Now, that is correct. But there is another rule, another phase of that question. If the limitation, whether it be affirmative or negative, operates to change the law or to enact new law in effect, then it is subject to the rule that prohibits legislation upon a general appropriation bill; and the Chair, in view of the fact that the amendment would impose upon officials new duties as to purchasing canal supplies, has no difficulty is arriving at the conclusion that the instructions are subject to the point of order for the reasons stated."

In viewing propositions of a legislative character the Chair feels we should look to the substance and not to the form in which it is presented. In the case before us what does the proviso propose? Does it impose a simple restriction on the expenditure of funds? No. Does it stipulate that the use of the funds is conditional upon the possession by the recipients of certain qualifications or distinctions? No. It goes much further, for by the use of the words "until" and "unless," in connection with certain things to be done, it implies—yes, asserts—that these activities must be undertaken before the appropriation becomes available. This is a direction to officers and imposes new duties upon them which is repugnant to our practice. By requiring the court to perform functions which are not required, it clearly implies a change of law, otherwise it would be futile to suggest it. This is legislation under the guise of a limitation which is contrary to our procedure.

As a general proposition the Chair feels that 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 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. Without endeavoring to law down any hard and fast rule, the Chair feels that the following tests may be helpful in deciding a question of order directed against a limitation, first having determined the powers granted or the duties imposed by existing laws:

Does the limitation apply solely to the appropriation under consideration?

Does it operate beyond the fiscal year for which the appropriation is made?

Is the limitation accompanied or coupled with a phrase applying to official functions, and if so, does the phrase give affirmative directions in fact or in effect, although not in form?

Is it accompanied by a phrase which might be construed to impose additional duties or permit an official to assume an intent to change existing law?

Does the limitation curtail or extend, modify, or alter existing powers or duties, or terminate old or confer new ones? If it does, then it must be conceded that legislation is involved, for without legislation these results could not be accomplished.

If the limitation will not fairly stand these tests then in my opinion the point of order should be sustained. Applying in the present instance the standards set forth, the judgment of the Chair is that the point of order is well taken and the Chair sustains it.

1707. The language of a limitation may not be such as, when fairly construed, would justify an executive officer in assuming an intent to change existing law.

Questions of order relating to limitations are construed strictly and any doubt as to whether legislation is involved will be construed in favor of the point of order.

On January 8, 1923,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

For board and care of all children committed to the guardianship of said board by the courts of the District, and for temporary care of children pending investigation or while being transferred from place to place, with authority to pay not more than $1,500 each to institution under sectarian control and more than $400 for burial of children dying while under charge of the board, $120,000: *Provided,* That no portion of this appropriation shall be used by said board for the board and care of any child in a boarding home unless the Industrial Home School, to which it is eligible for admission, is unable to receive it.

Mr. Frederick N. Zihlman, of Maryland, made the point of order that the language of the paragraph would be construed as an affirmative direction to an executive officer.

The Chairman[2] held:

This is an extremely close case, but the Chair in deciding it is going to adhere to the general proposition laid down this morning, that when doubt arises as to the effect of a limitation that doubt should be resolved on the conservative side in the interpretation of the rules. The Chair will agree that this committee can make appropriations for any of these homes or deny them in whole or in part, but the Chair does not feel that the Committee on Appropriations has the right to say that the appropriation will not be available until certain things transpire; this would restrict action of the authorities and limit their functions. The Chair also feels that the provision alters the powers conferred by law upon the board and that therefore it changes existing law, which is contrary to our rules. Without taking the time of the committee to recite precedents, the Chair refers to the ruling rendered a few minutes ago, which the Chair feels embraces the principles involved here. For these reasons the Chair sustains the point of order.

1708. While curtailment of expenditure from an appropriation is limitation, curtailment of authorized expenditure from such appropriation at the discretion of an executive couples legislation with limitation and is not in order.

On February 19, 1910,[3] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the section of the bill relating to purchase and storage of supplies was reached.

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[1] Fourth session Sixty-seventh Congress, Record, p. 1429.

[2] Frederick C. Hicks, of New York, Chairman.

[3] Second session Sixty-first Congress, Record, p. 2135.

Mr. Charles H. Burke, of South Dakota, offered the following amendment:

Provided, That no part of this appropriation shall be used to pay for rent of warehouses at New York, Chicago, St. Louis, Omaha, or San Francisco, unless the Secretary of the Interior shall deem it advisable to maintain warehouses at such places or any of them.

Mr. Gilbert M. Hitchcock, of Nebraska, in making a point of order said by way of explanation:

The point of order is that two years ago in the appropriation bill for Indian affairs the following proviso was inserted:

"*Provided,* That hereafter warehouses for the receipt, storage, and shipment of goods for the Indian Service shall be maintained at the following places: New York, Chicago, Omaha, St. Louis, and San Francisco."

Now, Mr. Chairman, this is a plain attempt to nullify that provision for the maintenance and support of Indian warehouses at those five cities.

The Chairman [1] ruled:

The act of Congress approved April 30, 1908, provides:

"That hereafter warehouses for the receipt, storage, and shipment of goods for the Indian Service shall be maintained at the following places: New York, Chicago, Omaha, St. Louis, and San Francisco."

That, although appearing in an appropriation bill, was legislation, and permanent legislation, until repealed or altered by act of Congress. The declaration of the statute that they shall be maintained at those places authorizes an appropriation, but is ineffective without one. Congress can either appropriate or withhold an appropriation. This proviso, so far is it reads, thus—

"*Provided,* That no part of this appropriation shall be used to pay for rent of warehouses at New York, Chicago, St. Louis, Omaha, or San Francisco"—

would, in the opinion of the Chair, be a pure limitation upon the appropriation. The rule, however, provides against changing existing law upon an appropriation bill. These additional words—"unless the Secretary of the Interior shall deem it advisable to maintain warehouses at said places or at any of them"—

vest in the Secretary a discretion which he does not have under the existing law. To that extent it changes existing law. The Chair sustains the point of order.

1709. To a limiting proviso denying use of any part of an appropriation to any soldiers' home maintaining a canteen, an amendment adding "unless located within 5 miles of a city where sale of liquor is permitted" was held to be a limitation upon the limitation and in order.

On May 27, 1910,[2] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

Provided, That no part of the foregoing appropriations shall be expended for any purpose at any branch of the National Home for Disabled Volunteers that maintains or permits to be maintained on its premises a bar, canteen, or other place where beer, wine, or other intoxicating liquors are sold.

Mr. John A. Keliher, of Massachusetts, offered this amendment:

After the word "sold" add "Unless such branch is located in or within 5 miles of a city or town in which the sale of intoxicating liquors is permitted by law."

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[1] Marlin E. Olmsted, of Pennsylvania, Chairman.

[2] Second session Sixty-first Congress, Record, p. 7008.

Mr. James A. Tawney, of Minnesota, reserved a question of order on the amendment.

The Chairman [1] decided:

The proviso in the bill is: That no part of the foregoing appropriations shall be expended for any purpose at any branch of the National Home for Disabled Volunteers that maintains or permits to be maintained on its premises a bar, canteen, or other place, where beer, wines, or other liquors are sold. The present occupant of the Chair does not personally remember whether that proviso in the exact language has been ruled upon, but substantially, if not exactly, it has been ruled in order. The gentleman's amendment proposes to insert, after the language just read, the following as a part of the paragraph:

"Unless such branch is located in or within 5 miles of a city or town in which the sale of intoxicating liquors is permitted by law."

The present limitation in the bill is an absolute limitation or prohibition, but if amended by the gentleman's amendment would be simply a limitation as to certain branch soldiers' homes, those which were not located within or within 5 miles of a city or town in which the sale of intoxicating liquors is permitted by law. The amendment offered by the gentleman seems to the Chair to carry out the purpose of the limitation, maintaining entirely the form of the limitation. It does not affect the legislation in any way. The Chair therefore overrules the point of order.

1710. A limitation may deny an appropriation for a purpose authorized by law.

A provision that no part of an appropriation be expended for a reformatory within a radius of 10 miles of Mount Vernon except the one now located at Occoquan, was held to be a limitation and in order on an appropriation bill.

On January 28, 1911,[2] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Charles C. Carlin, of Virginia, offered the following as a new paragraph:

Provided, That no part of any appropriation contained in this act shall be expended for any purpose whatsoever for a reformatory or asylum or workhouse in the State of Virginia, within a radius of 10 miles of Mount Vernon, except the one now located at Occoquan, Va.

Mr. Washington Gardner, of Michigan, having raised a question of order on the amendment, Mr. James A. Tawney, of Minnesota, said:

Mr. Chairman, I just wish to make this observation: It is of the nature of a legislative limitation which changes existing law, the law now expressly authorizing the construction of a workhouse in the State of Virginia on a site which has heretofore been purchased with money appropriated by Congress.

Mr. Chairman, the amendment offered by the gentleman from Virginia reads as follows:

"*Provided,* That no part of any appropriation contained in this bill shall be expended for any purpose whatsoever for a reformatory or asylum or workhouse in the State of Virginia within a radius of 10 miles of Mount Vernon."

Now, the gentleman who have discussed this admit that the purpose is to prevent the expenditure of money for the construction of the workhouse which is being constructed now on a site previously authorized by Congress with money appropriated by Congress. That site has been located there by authority of law. The purpose of this is to change that location, and to that extent to change the law under which this site has been selected.

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[1] James P. Mann, of Illinois, Chairman.

[2] Third session Sixty-first Congress, Record, p. 1613.

If the gentleman wishes to stop work on this workhouse, then he should make his limitation apply to the appropriation under which this particular work is being conducted, or is to the conducted, in the next fiscal year. The appropriation has been made for this year, and the work is going on and will go on until the end of this fiscal year. The District of Columbia appropriation bill for this year contains this provision:

"Reformatory and workhouse: For the following purposes in connection with the removal of jail and workhouse prisoners from the District of Columbia to the sites acquired or to be acquired for a workhouse and reformatory in the State of Maryland or Virginia, in accordance with the provisions of existing law, including superintendence, etc., $120,000."

That is carried in the current District of Columbia appropriation act for the work that is now going on, and will continue to go on, on this site between now and the 1st of next July.

Mr. James R. Mann, of Illinois, replied:

Does not the law and the Constitution also vest in Congress the discretion as to whether it will or will not make an appropriation for any purpose under the sun? They can go out and locate it where they please; we say that we will not pay the money for it.

The Chairman [1] ruled:

The gentleman from Virginia offers an amendment which the Chair will read, so that it may appear in its proper place in connection with the ruling on the point of order:

"*Provided,* That no part of any appropriation contained in this act shall be expended for any purpose whatsoever for a reformatory or asylum or workhouse in the State of Virginia within a radius of 10 miles of Mount Vernon, except the one now located at Occoquan, Va."

To this a point or order is made that it is a change of existing law, or that it has the effect of changing existing law. This point has been the subject of so many rulings that the Chair is at a loss just which one to cite. The most famous ruling, perhaps, on the subject is the one made in the Fifty-fourth Congress by Mr. Nelson Dingley, of Maine, as Chairman, in which he laid down as the governing principle the following:

"The reason for that rule of limitation is simply this: The House in Committee of the Whole has the right to refuse to appropriate for any object which it may deem improper, although the object may be authorized by law; and it has been contended, and on various occasions sustained by the Committee of the Whole, that if the committee has the right to refuse to appropriate anything for a particular purpose authorized by law it can appropriate for only a part of that purpose and prohibit the use of the money for the rest of the purpose 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."

The present amendment seems to the Chair to come clearly within that principle and to be simply a limitation on an appropriation. Such a limitation is clearly in order under the rules and practice of the House, even though it forbade the expenditure of any part of the appropriation for purposes heretofore specifically authorized by law. The Chair therefore overrules the point of order.

1711. An amendment prohibiting the use of any part of an appropriation in the construction of a public building for which stone was quarried outside of the section in which the building was to be erected was admitted as a limitation.

On December 13, 1932,[2] the Committee of the Whole House on the state of the Union had under consideration of Treasury and Post Office Departments appropriation bill.

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] Second session Seventy-second Congress, Record, p. 408.

The Clerk having read a paragraph providing for public buildings under the control of the Treasury Department, Mr. William P. Connery, jr., of Massachusetts, offered this amendment:

Provided further, That no part of the moneys appropriated in this bill shall be used to pay contractors for public buildings to be erected or remodeled where the stone is specified to be quarried outside of the section where such public building is to be erected or remodeled.

Mr. Joseph W. Byrns, of Tennessee, presented the point of order that the proposed amendment changed existing law.

The Chairman [1] overruled the point of order:

1712. A provision that no part of an appropriation be available unless a certain proclamation should have been issued was admitted as a limitation.

An instance in which the Chairman expressed himself as being in doubt as to the admissibility of an amendment and would resolve that doubt in favor of the amendment.

On May 21, 1918,[2] the bill H.R. 11945, the food production bill, was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Fourth. For increasing food production and eliminating waste and promoting conservation of food by educational and demonstrational methods, through county, district, and urban agents and others, $6,100,000.

To this paragraph Mr. Charles H. Randall, of California, offered the following amendment:

After the figures "$6,100,000" insert: "No part of this appropriation shall be available for any purpose unless there shall have been previously issued the proclamation authorized by section 15 of the act of August 10, 1917, entitled 'An act to provide further for the national security and defense by stimulating agriculture and facilitating the transportation of agricultural products," such proclamation being the prohibition of the use of foods, fruits, food materials, or feeds in the production of malt or vinous liquors for beverage purposes."

Mr. William H. Stafford, of Wisconsin, made the point of order that the amendment was legislation and was germane neither to the paragraph nor to the bill.

The Chairman [3] held:

A different principle from that of germaneness is involved in the point of order to this amendment. If the Chair understands the amendment it is intended as a limitation on the payment of any money under this paragraph until the President has issued a certain indicated proclamation which in his discretion he may or may not issue. This amendment does not compel him to issue it, but so long as it is unissued the House does not propose, if the amendment is adopted, to allow the Agricultural Department to have the benefit of the appropriation in this paragraph. In other words the amendment proposes to utilize the right of the House to appropriate, or not to appropriate, in its discretion, to an object authorized by law. This, of course, is the fundamental principle upon which this amendment must depend.

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[1] Thomas S. McMillan, of South Carolina, Chairman.

[2] Second session Sixty-fifth Congress, Record, p. 6368.

[3] Edward W. Saunders, of Virginia, Chairman.

This amendment does not compel the President to issue the proclamation referred to. He may issue it or refuse to issue it in his discretion. But the amendment in substance says to the Department of Agriculture: We propose to withhold from you the benefit of this appropriation during the full period of time during which this proclamation is unissued. That may be a very unreasonable ground for the House to take, but after all is not this question merely one of competency or power resting upon our authority to refuse or award an appropriation? If we choose to withhold it, who is to say nay to us? We can be unreasonable if we choose to be unreasonable.

The matter proposed to be dealt with is an appropriation of money, and this body has the absolute power to determine whether it will or will not appropriate. In the exercise of that power we may do unreasonable things, arbitrary things, whimsical and absurd things, but after all the question is whether, with respect to the action proposed, we are within our powers and within our rules—in a work, whether this is a limitation, in a parliamentary sense, on an appropriation bill. The Chair is not altogether certain, in his own mind, that the amendment, in the form submitted, is strictly and technically a limitation, and being in doubt he resolves that doubt in favor of the amendment and remits the same to the determination of the committee.

1713. Provision that no part of an appropriation be used in purchase of typewriters at price in excess of certain standard is a limitation and in order on appropriation bill.

On February 13, 1919,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Otis Wingo, of Arkansas, offered this amendment:

That no part of any money appropriated by this act shall be used during the fiscal year 1920 for the purchase of any typewriting machine at a price in excess of the lowest price paid by the Government of the United States for the same make and substantially the same model of machine during the fiscal year 1918; such price shall include the value of any typewriting machine or machines given in exchange, but shall not apply to special prices granted on typewriting machines used in schools of the District of Columbia or of the Indian Service, the lowest of which special prices paid for typewriting machines shall not be exceeded in future purchases for such schools: *Provided,* That in construing this section the Commissioner of Patents shall advise the Comptroller of the Treasury as to whether the changes in any typewriter are of such structural character as to constitute a new machine not within the limitations of this section.

Mr. Hubert S. Dent, jr., of Alabama, having raised a point of order on the amendment, the Chairman,[2] after debate, held it to be in order as a limitation.

1714. Provision that no part of an appropriation be used in payment of salaries of Army officers who prohibit social intercourse between officers and enlisted men is a limitation and in order on an appropriation bill.

On February 14, 1919,[3] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

All the money hereinbefore appropriated for pay of the Army and miscellaneous, except the appropriation for mileage to commissioned officers, contract surgeons, expert accountant, Inspector General's Department, Army field clerks, and field clerks of the Quartermaster Corps, when authorized by law, shall be disbursed and accounted for as pay of the Army, and for that purpose shall constitute one fund.

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[1] Third session Sixty-fifth Congress, Record, p. 3315.

[2] Edward W. Saunders, of Virginia, Chairman.

[3] Third session Sixty-fifth Congress, Record, p. 3394.

Mr. William J. Fields, Kentucky, offered an amendment as follows:

Provided, That no part of the funds herein appropriated shall be applied in payment of the salary of any officer of the Army of the United States who shall promulgate or cause to be promulgated any order prohibiting social intercourse between officers and enlisted men of the United States Army while not on military duty or that will in any way establish or attempt to establish social or class distinction between officers and men or between officers of different ranks while not on military duty: *Provided,* That this limitation shall not apply to officers whose only connection herewith is in obedience to an order of a superior officer.

Mr. Hubert S. Dent, jr., of Alabama, made the point of order that the amendment was legislation and was not germane.

The Chairman [1] ruled:

The Chair does not understand what offense is created by this amendment, or what punishment is fixed. A limitation, as has been often stated, deals negatively with the application of money which the House may, or may not appropriate, at its pleasure. It matters not how meritorious the subject matter may be, the House can decline to appropriate for the same. It can put a negative restriction upon the use of the money which is appropriated. We can not prescribe that money shall be used in some particular fashion, but we can provide how it may not be used. A few days ago an amendment was under consideration in the Committee of the Whole which on appeal was held to be a limitation. This amendment was as follows:

"*Provided,* That no part of the appropriation herein shall be used unless all former ex-employees who have been drafted or enlisted in the military service of the United States in the war with Germany shall be reinstated on application to their former positions, provided they have received an honorable discharge."

A point of order to this amendment was fully argued, and on appeal it was decided, as stated above, that the amendment was a limitation although apparently it was more affirmative than negative in its character.

The amendment under consideration deals entirely with money. One of the most interesting illustrations of a limitation, pure and simple, is found in the Canteen Case. The language used in that amendment was as follows:

"No part of this appropriation shall be apportioned to any National Home for Disabled Volunteer Soldiers which contains a canteen where intoxicating liquors are sold."

The amendment did not undertake to say that the trustees should abolish the canteen before they secured the benefit of the appropriation. The amendment did not require the trustees to do anything affirmatively, but simply contented itself with saying that in those homes where the canteen was found the appropriation should not be expended.

What are the provisions of this amendment? It does not impose any duty upon the officers referred to. It merely declares that when an officer has done any one of the things mentioned, no part of the money appropriated shall be paid to that officer. It may or may not be a wise act on the part of the committee to agree to this amendment, but the Chair is not concerned with that phase of the situation. This amendment is simply a negative inhibition upon the use of the money appropriated. It provides that it shall not be applied under certain indicated conditions.

It does not deal with anything but money. If it is not a pure limitation, the Chair is unable to apprehend what a limitation is. Certainly if this amendment does not come within the Canteen Case, not to speak of the case that was decided a few days ago, the Chair would be at a loss to prepare a limitation that would be in order. In the judgment of the Chair this is a limitation, conforming to the requirements of the precedents, and the point of order is overruled.

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[1] Edward W. Saunders, of Virginia, Chairman.

1715. On February 18, 1919,[1] the House had passed the Army appropriation bill to be engrossed, and the bill had been read a third time, when Mr. William J. Fields, of Kentucky, moved to recommit with instructions to insert the following:

Provided, That no part of the funds herein appropriated shall be expended in the payment of the salary of any officer of the Army of the United States who shall issue or cause to be issued any written order prohibiting social intercourse between officers and enlisted men of the same regiment while not on military duty: *Provided further,* That the limitation herein imposed shall not apply to officers whose only connection therewith is in obedience to an order of a superior officer.

Mr. Hubert S. Dent, jr., of Alabama raised a question of order on the amendment proposed in the instructions.

The Speaker[2] overruled the point of order on the ground that the amendment proposed a limitation.

1716. A provision that an emergency fund for maintenance of the Navy be expended on the approval of the Secretary of the Navy was held to be a limitation, but provision that it be disbursed for such purposes as he might deem proper was held to be legislation and not in order on an appropriation bill.

On February 11, 1921,[3] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

Contingent, Navy: For all emergencies and extraordinary expenses, exclusive of personal services in the Navy Department or any of its subordinate bureaus or offices at Washington, D.C., arising at home or abroad, but impossible to be anticipated or classified, to be expended on the approval and authority of the Secretary of the Navy, and for such purposes as he may deem proper, $50,000.

Mr. Fred A. Britten, or Illinois, made a point of order against the paragraph, which was sustained by the Chairman.[4]

Whereupon Mr. Patrick H. Kelley, of Michigan, offered the following amendment:

Contingent, Navy: For all emergencies and extraordinary expenses, exclusive of personal services in the Navy Department or any of its subordinate bureaus or offices at Washington, in the District of Columbia, arising at home or abroad, but impossible to be anticipated or classified, to be expended on the approval and authority of the Secretary of the Navy, $50,000.

Mr. Britten, having again submitted a point of order, Mr. Kelley said:

I understood the Chair to object to the language "and for such other purposes as he may deem proper," but not to the language "to be expended under the direction of the Secretary," because that has been sustained under former rulings, so that I sent up an amendment with the objectionable language stricken out.

The Chairman overruled the point of order.

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[1] Third session Sixty-fifth Congress, Record, p. 3735.

[2] Champ Clark, of Missouri, Speaker.

[3] Third session Sixty-sixth Congress, Record, p. 3016.

[4] Joseph Walsh, of Massachusetts, Chairman.

1717. Authorization to an executive to reduce expenditures within his discretion is not in order as a limitation, nor does it come within the Holman rule.

On April 26, 1921,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When a provision for armor and armament for the Navy was reached Mr. R. Walton Moore, of Virginia, proposed this amendment:

The President is authorized in his discretion to suspend wholly or partially the expenditure of the sums aggregating $90,000,000 specified in this and the two next preceding paragraphs if and when under his direction an agreement approved by him is reached or about to be reached for the curtailment of naval construction by the Government of the United States, Great Britain, and Japan.

Mr. Patrick H. Kelley, of Michigan, made the point of order that the amendment was legislation and did not reduce expenditures.

The Chairman[2] held:

To the amendment just reported the gentleman from Michigan makes the point of order.

It is clear to the Chair that the amendment offered by the gentleman from Virginia is not in order under any interpretation or provision of the Holman rule. If it be in order at all, it is because it is a limitation upon an appropriation or appropriations in the bill to which the amendment refers.

In order for a limitation to be in order, in the view of the Chair, it must be clear and definite, and must deny the use of the appropriation or the expenditure of the money to which the amendment refers. In this amendment, however, it is not a specific denial or withholding of the expenditure, but it is in a sense speculative. There is no clear denial of the appropriation, and in the view of the Chair it does not come within that class of provisions which are in order on appropriation bills, and the Chair therefore sustains the point of order.

1718. The President being authorized by law to call an international conference, an amendment denying use of an appropriation until such conference was called was held in order as a limitation, while an amendment making the appropriation available until the calling of such conference was ruled out of order.

On April 26, 1921,[3] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

Increase of the Navy, armor and armament: Toward the armor and armament for vessels heretofore authorized, to be available until expended, $33,000,000.

Mr. Tom Connally, of Texas, offered this amendment:

After the figures "$33,000,000" insert "*Provided, however,* That this appropriation shall only be available until the President, on behalf of the United States, reaches an agreement with the Governments of Great Britain and Japan for the curtailment or limitation of naval construction or armament."

Mr. Patrick H. Kelley, of Michigan, made the point of order that the amendment was a limitation in form only and was in effect a legislative proposition.

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[1] First session Sixty-seventh Congress, Record, p. 683.

[2] Joseph Walsh, of Massachusetts, Chairman.

[3] First session Sixty-seventh Congress, Record, p. 684.

The Chairman [1] said:

The gentleman from Texas offers an amendment to the paragraph, the effect of which is that the appropriation shall only be available until the President, on behalf of the United States, reaches an agreement with the Governments of Great Britain and Japan for the curtailment or limitation of naval construction or armament. In the opinion of the Chair that does not come within the rule as to limitations on an appropriation, and the Chair sustains the point order.

Thereupon Mr. Connally proposes the following:

After the figures "$33,000,000," insert "*Provided,* That no part of this sum shall be expended until the president of the United States shall have invited the Governments of all nations to send accredited delegates to an international convention to be held in the United States to consider ways and means of bringing about joint disarmament."

Mr. Frank W. Mondell, of Wyoming, having submitted a further point of order, the Chairman ruled:

As the gentleman from Wyoming states, a similar amendment was offered on a previous occasion when the present occupant of the Chair was presiding in committee, and after considerable discussion the point of order was overruled. The amendment which is offered, in the view of the Chair, is a limitation upon the appropriation and withholds or denies the expenditure until the president shall have called a conference which, under a fair interpretation in the naval bill of 1916, he is authorized to do. And while it is very close to being a directory provision in the law the Chair is of the opinion now, as he was on a former occasion, that it is within the power, and he overrules the point of order.

1719. Provision that no part of an appropriation be available for pay of any midshipman whose appointment would result in exceeding an allowance of three for each member was held to be a limitation and in order in an appropriation bill.

On December 16, 1922,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph providing for pay of the Navy was reached which contained the following proviso:

Provided further, That no part of this appropriation shall be available for the pay of any midshipman whose admission, subsequent to the class entering the Naval Academy next after the approval of this act, would result in exceeding at any time an allowance of three midshipmen for each Senator, Representative, and Delegate in Congress; of one midshipman for Porto Rico a native of the island, appointed on nomination of the governor, and of one midshipman from Porto Rico, appointed on nomination of the Resident Commissioner; and of two midshipmen for the District of Columbia.

Mr. Fred A. Britten, of Illinois, made the point of order that the proviso carried law and was not in order on an appropriation bill.

The Chairman ruled: [3]

Even if the Chair was not called upon to consider the question of the applicability of the Holman rule, if there were any doubt on the face of it that it reduced expenditures, the Chair is inclined to think this is distinctly a limitation of an appropriation. The present occupant of the chair has ruled a number of times that where an appropriation was within the law it was within the power of the committee to limit that appropriation as to the precise direction in which

[1] Joseph Walsh, of Massachusetts, Chairman.

[2] Fourth session Sixty-seventh Congress, Record, p. 579.

[3] Nicholas Longworth, of Ohio, Chairman.

it should be expended. this is unquestionably a limitation of an appropriation, and the Chair thinks that on that ground it is in order; and the Chair overrules the point of order.

1720. A limitation must apply solely to the money of the appropriation under consideration and may not be made applicable to money appropriated in other acts.

In construing an amendment offered as a limitation the practice of the House relating thereto should be construed strictly in order to avoid incorporation of legislation in appropriation bills under guise of limitations.

An amendment providing certain conditions precedent of an affirmative character upon which an appropriation should be available was held to be legislation and not in order on an appropriation bill.

Part of an amendment being out of order, the entire amendment is subject to a point of order.

On January 29, 1024,[1] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The paragraph providing an appropriation of $380,000 for the Minidoka project was read, when Mr. Louis C. Cramton, of Michigan, proposed the following:

Provided, That no part of the appropriation for the Minidoka project herein and no part of any unexpended balance of the 1924 appropriation for this project shall be expended on the American Falls Reservoir until (1) all acts have been performed that are necessary precedent to the conveyance of the title in fee to the Secretary of the Interior of such Indian lands as are essential to the construction of the said reservoir; (2) all the companies and districts which have contracted to cooperate with the United States in the construction of the said reservoir shall have paid to the United States their due proportionate share of all moneys advanced by the United States to the benefit of said districts or companies prior to the date of said payment, including interest at the rate of 6 per cent per annum from the time such moneys were advanced by the United States; (3) the American Falls Reservoir district shall have filed with the Secretary of the Interior an agreement binding said district to the elimination of section 46 of its contract of June 15, 1923, with the United States; (4) the companies and districts which have contracted to cooperate with the United states in the construction of said reservoir shall have paid to or deposited with the United States cash or United States Government securities amounting to at least $1,500,000 as security as provided in section 27 of the contract of June 15, 1923: *Provided further,* That no other company or district shall hereafter be permitted the use of water from said reservoir except under a contract requiring and insuring its contribution to the United States of its fair proportionate cost of the reservoir, including interest at the rate of 6 percent per annum upon all moneys advanced by the United States for its benefit from the time such moneys were so advanced.

Mr. Thomas L. Blanton, of Texas, raised a point of order against the amendment on the ground that it was legislation and provided for the expenditure of money unauthorized by law.

The Chairman[2] held:

The point of order being directed to the entire amendment, if there is any part of the amendment subject to a point of order the point of order is sustained as to the entire amendment.

The Chair is of the opinion that this is not a proper limitation for the following reasons: That it deals with an unexpended balance of another appropriation.

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[1] First session Sixty-eighth Congress, Record, p. 1637.

[2] John Q. Tilson, of Connecticut, Chairman.

The Chair is ruling on an amendment offered by way of limitation to a certain appropriation but it can not be a limitation on that appropriation if it deals with appropriations under other laws. The amendment offered by the gentleman from Michigan stands upon the same footing as an amendment offered by any other gentleman on the floor. The provisions of No. 3 are clearly not within the realm of proper limitation. The proviso, which deals with general law by containing this language, "that no other company or district shall hereafter be permitted the use of water from said reservoir except under a contract requiring and insuring its contribution to the United States of its fair proportionate cost of the reservoir," and so forth, is clearly permanent legislation.

The Chair calls attention to the following authority on the question raised by the gentleman from Michigan:

"The limitation must apply solely to the money of the appropriation under consideration and may not be made applicable to money appropriated in other acts."

That is contained in the Manual and Digest, paragraph 825. The Chair does not hold that the balance of the amendment is in order, but he will pass upon that question if presented to him. For the reasons stated by the Chair, the point of order is sustained.

Thereupon Mr. Cramton proposed to reoffer the amendment omitting the reference to the 1924 appropriation, reading:

"And no part of any unexpended balance of the 1924 appropriation for this project."

Also strike out clause 3 and strike out clause 5.

Mr. Blanton made the point of order that the amendment as modified was legislation and not a limitation.

The Chairman ruled:

The Chair thinks the amendment is subject to a point of order. The proviso on the paragraph in the bill sought to be amended is a clear limitation in itself; the proviso reads that no part of this appropriation shall be expended on the so-called American Falls Reservoir. This amendment offered by the gentleman from Michigan purports to modify the straight-out limitation by enumerating a great many things which must be done as a condition precedent to the expenditure of the moneys appropriated. There may be some precedents which would justify the amendment. The rulings on what is a limitation and what may be embraced in a so-called limitation are not uniform. It seems to me that the better interpretation of our rule is to be strict in the ruling with reference to limitations in order that legislation may not creep into amendments and appropriation bills under the guise of limitations. This amendment contains many details of a more or less legislative character and makes them a condition precedent to the expenditure of this appropriation, and it occurs to the Chair that it is clearly subject to a point of order, and the Chair sustains the point of order.

Chapter CCXXVIII. [1]

HISTORY AND JURISDICTION OF THE STANDING COMMITTEES.

1721. Recent history of the Committee on Elections, section 1, of Rule XI.

Section 1 of Rule XI provides for the reference of subjects relating—

to the election of Members to the respective Committees on Elections.

There has been no amendment of the rules affecting these committees either as to jurisdiction or membership since the division of the former single committee into three committees of nine members each in 1895. [2]

1722. The Committee on Elections No. 1 has exercised jurisdiction over bills revising the law governing proceedings in contested-election cases.

On October 4, 1921, [3] during a call of the calendar for unanimous consent, the bill (H.R. 7761) to amend the Revised Statutes of the United States relative to proceedings in contested-election cases, reported by the Committee on elections No. 1 and on the calendar, was reached.

Mr. Frederick W. Dallinger, of Massachusetts, asked unanimous consent that the bill be passed over without prejudice.

Mr. Joseph Walsh, of Massachusetts, inquired if each of the Committees on Elections had jurisdiction to report legislation on this subject.

Mr. Dallinger said:

All I can say in reply to my colleague from Massachusetts is that this bill was referred to the Committee on Elections No. 1. I desire to state that this matter was considered not only by the Committee on Elections No. 1 but it was taken up by the chairmen of the other two Elections Committees, who made suggestions, and we have made our report. I assume that it is too late now to raise the question of jurisdiction, when the bill has been referred to the committee, acted upon by it, and reported.

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[1] Supplementary to Chapter XCIX.

[2] First session Fifty-fourth Congress, Journal, p. 54; Record, pp. 202–216.

[3] First session Sixty-seventh Congress, Record p. 5998.

I understand from the Speaker's parliamentary clerk that the present statute governing the conduct of contested elections was originally reported by the Committee on Elections, and I understand that was the reason why this bill, which is an amendment to it, was referred to our committee.

There being no objection, the bill went over without prejudice, and on October 17 [1] was considered and passed by the House.

1723. The history of the Committee on Ways and Means, section 2 of Rule XI.

The rules confer on the Ways and Means Committee the jurisdiction of subjects relating to the revenue and measures purporting to raise revenue and the bonded debt of the United States.

Section 2 of Rule XI provides for the reference of subjects relating—

to the revenue and such measures as purport to raise revenue and the bonded debt of the United States to the Committee on Ways and Means.

Dating from the revision of 1880, [2] this rule conferred jurisdiction on subjects relating to the revenue and bonded debt of the United States, but in the adoption of the rules for the Sixty-second Congress [3] it was amended to include measures purporting to raise revenue, and has since appeared in its present form.

The committee now consists of twenty-five members. The membership of the committee was increased from eighteen members to nineteen members in 1907 [4]; to twenty-one members in 1911 [5]; to twenty-two members in 1915 [6]; to twenty-three members in 1917 [7]; to twenty-five members in 1919 [8]; to twenty-six members in 1923 [9]; and to its present membership in 1925. [10]

1724. The Ways and Means Committee has exercised jurisdiction over legislation fixing compensation of employees of the customs service.

The Committee on Ways and Means reported:

In 1908,[11] the bill (H.R. 21003), fixing compensation of certain officials in the customs service.

In 1919,[12] a bill to authorize the Secretary of the Treasury to fix compensation of certain laborers in the customs service.

1725. The Committee on Ways and Means no longer exercises jurisdiction as to the seal herds and other revenue producing animals of Alaska.

The committee on Ways and Means formerly [13] exercised jurisdiction as to those fur-bearing animals of Alaska which have been a source of revenue, but in the

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[1] Record, p. 6387.

[2] Second session Forty-sixth Congress, Record, p. 205.

[3] First session Sixty-second Congress, Record, p. 12, 80.

[4] First session Sixtieth Congress, Record, p. 356.

[5] First session Sixty-second Congress, Record, pp. 11, 80.

[6] First session Sixty-fourth Congress, Record, p. 13.

[7] Second session Sixty-fifth Congress, Record, p. 354.

[8] First session Sixty-sixth Congress, Record, p. 9

[9] First session Sixty-eighth Congress, Record, pp. 332–334.

[10] First session Sixty-ninth Congress, Record, p. 391.

[11] First session Sixtieth Congress, Record, p. 4947; Report No. 1470.

[12] Second session Sixty-sixth Congress, Report No. 516.

[13] Hinds' Precedents, section 4025.

Sixty-eighth Congress, by agreement, jurisdiction of this subject was transferred to the Committee on Merchant Marine and Fisheries, and on March 25, 1924,[1] the Speaker, addressing the House by consent, said:

> There are two bills which it is agreed by the chairmen of the two committees interested should be re-referred: One is H. R. 4104, an act to prevent the extermination of fur-bearing animals in Alaska, and so forth, and the other is the bill H. R. 754, to authorize the Treasurer of the United States to turn in to the treasury of the Territory of Alaska all moneys received from the sale of fur seals and such other furs as are the property of the United States of America from the Pribilof Islands. Without objection, the reference of these bills will be changed from the Committee on Ways and Means to the Committee on the Merchant Marine and Fisheries.

There was no objection, and legislation relating to this subject has since been considered by the committee on Merchant Marine and Fisheries.

1726. The Committee on Ways and Means has jurisdiction of legislation specifying methods of packing tobacco on which a tax is levied.

The Ways and Means Committee exercises jurisdiction over legislation relating to the size and character of containers of tobaccos on which a tax is levied. Thus the committee reported in 1910,[2] the bill (H. R. 23910) to authorize the packing of fine-cut chewing tobacco in wooden packages containing 10, 20, 40, and 60 pounds each.

1727. Bills to license customhouse brokers come within the jurisdiction of the Committee on Ways and Means.

The Committee on Ways and Means reported in 1910,[3] the bill (S. 6173) to license customhouse brokers.

1728. The Ways and Means Committee exercises jurisdiction over legislation relating to appraisers of merchandise in the customs service.

The Committee on Ways and Means considered:

In 1910,[4] a bill to limit and fix compensation of the appraiser of merchandise at the port of San Francisco.

In 1912,[5] a bill to make the special examiner of drugs, medicines, and chemicals an assistant appraiser for the Port of Boston.

1729. Legislation providing for creation of a tariff board belongs within the jurisdiction of the Committee on Ways and Means.

The Committee on Ways and Means reported in 1911,[6] the bill (H. R. 32010) to create a tariff board.

1730. The Committee on Ways and Means has jurisdiction of bills providing methods of payment of duties and acceptance of negotiable instruments in payment of duties and taxes.

The Committee on Ways and Means reported:

In 1912,[7] a bill to amend an act entitled "An Act to authorize the receipt of certified checks drawn on national and state banks for duties on imports and internal taxes."

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[1] First session Sixty-eighth Congress, Record, p. 4954.

[2] Second session Sixty-first Congress, Record, p. 4853; Report No. 1039.

[3] Second session Sixty-first Congress, Record, p. 5476; Report No. 1152.

[4] Second session Sixty-first Congress, Record, p. 8612; Report No. 1670.

[5] Second session Sixty-second Congress, Record, p. 5300, Report No. 594.

[6] Third session Sixty-first Congress, Record, p. 1399; Report No. 1979.

[7] Second session Sixty-second Congress, Record, p. 1909.

In 1912,[1] a bill to extend the authority to receive certified checks drawn on national and state banks and trust companies in payment for duties on imports and internal taxes and all public dues.

1731. The Committee on Ways and Means has exercised jurisdiction over bills providing for refund of duties collected on imports.

The Committee on Ways and Means reported in 1912,[2] the bill (H. R. 12813) to refund duties collected on parts and accessories of lace making and other machines imported prior to January 1, 1911.

1732. Legislation pertaining to entry under bond of exhibits without payment of duty falls within the jurisdiction of the Ways and Means Committee.

The Committee on Ways and Means reported in 1912,[3] the bill (H. R. 25806) to provide for the entry under bond of exhibits of arts, science, and industry.

1733. The Committee on Ways and Means has jurisdiction over legislation relating to the importation of narcotics.[4]

The Committee on Ways and Means reported:

In 1909,[5] a bill prohibiting the importation and use of opium for other than medicinal purposes.

In 1914,[6] and 1922,[7] bills amending the Harrison Narcotic Act prohibiting the importation and use of opium for other than medicinal purposes.

In 1924,[8] a bill prohibiting the importation of crude opium for the purpose of manufacturing heroin.

1734. Bills relating to allowances on internal-revenue duties are reported by the Committee on Ways and Means.

The Committee on Ways and Means reported in 1912,[9] the bill (H. R. 4434) to provide an allowance for loss of distilled spirits deposited in internal-revenue warehouses.

1735. Legislation prescribing regulations and pay for laborers unlading vessels in the Customs Service has been reported by the Committee on Ways and Means.

The Committee on Ways and Means reported:

In 1919,[10] a bill to authorize the Secretary of the Treasury to fix compensation of certain laborers in the Customs Service.

In 1920,[11] a bill to amend an act entitled "An Act to provide for the lading or unlading of vessels at night, the preliminary entry of vessels, and for other purposes."

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[1] Second session Sixty-second Congress, Record, p. 7737; Report No. 841.

[2] Second session Sixty-second Congress, Record, p. 9103; Report No. 998.

[3] Second session Sixty-second Congress, Record, p. 9850; Report No. 1091.

[4] See session 8853 of this volume.

[5] Second session Sixtieth Congress, Reports No. 2002, No. 2003.

[6] First session Sixty-third Congress, Reports, No. 22, No. 23, No. 2003.

[7] Second session Sixty-seventh Congress, Report No. 852.

[8] First session Sixty-eighth Congress, Record, p. 6598.

[9] Third session Sixty-second Congress, Record, p. 195, Report No. 1263.

[10] Second session Sixty-sixth Congress, Record, p. 940; Report No. 516.

[11] Second session Sixty-sixth Congress, Record, p. 1810.

1736. Authorization to conduct negotiations relating to obligations of foreign governments to the United States is a subject within the jurisdiction of the Ways and Means Committee.

The Committee on Ways and Means has reported:

In 1921,[1] the bill (H. R. 8762) to create a commission authorized under certain conditions to refund or convert obligations of foreign governments owing to the United States of America.

In 1924,[2] the bill (H. R. 8905) to authorize the settlement of the indebtedness of the Kingdom of Hungary to the United States of America.

1737. Control and disposition of alien property held by the United States, and the adjudication of conflicting claims of American subjects against foreign governments and foreign subjects against the United States are within the jurisdiction of the Committee on Ways and Means.

The Committee on Ways and Means reported in 1926[3] a bill to provide for the settlement of certain claims of American nationals against Germany and of German nationals against the United States, for the ultimate return of all property of German nationals held by the Alien Property Custodian, and for the equitable apportionment among all claimants of certain available funds.

1738. The Committee on Ways and Means has jurisdiction of bills relating to adjusted compensation of World War veterans.[4]

On February 26, 1920,[5] the following resolution, reported by Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, was agreed to by the House:

Resolved, That for the remainder of the second session of the Sixty-sixth Congress all proposed legislation relating to those who served in the World War (other than those of the Regular Establishment), excepting, however, legislation based on and relating to disability incurred in the service, shall be referred to the Committee on Ways and Means, and the Speaker is hereby authorized to make reference of bills heretofore introduced in accordance with the terms of this resolution.

The Committee on Ways and Means continued to exercise jurisdiction over proposed legislation relating to adjusted compensation of veterans of the World War until the Sixty-eighth[6] Congress when the jurisdiction of the Committee on Ways and Means over that subject was confirmed by the rule creating the Committee on World War Veteran's Legislation.

The Committee on Ways and Means reported:

In 1920,[7] the bill (H. R. 14157) to provide adjusted compensation for veterans of the World War, to provide revenue therefor, and for other purposes.

In 1924,[8] the bill (H. R. 7959) to provide adjusted compensation for veterans of the World War.

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[1] First session Sixty-seventh Congress, Record, p. 4890; Report No. 421.

[2] First session Sixty-ninth Congress, Record, p. 7800; Report No. 654.

[3] Second session Sixty-ninth Congress, Report No. 1623.

[4] This subject was specifically reserved in defining the jurisdiction of the Committee on World War Veterans' Legislation, First session, Sixty-eighth Congress, Record, p. 1143.

[5] Second session Sixty-sixth Congress, Record, p. 3521.

[6] First session Sixty-eighth Congress, Record, p. 944.

[7] Second session Sixty-sixth Congress, Record, p. 7157.

[8] First session Sixty-eighth Congress, Record, p. 4395; House Report No. 313.

1739. The Committee on Ways and Means and not the Committee on Irrigation of Arid Lands has jurisdiction of legislation relating to issuance of certificates of indebtedness to reclamation fund.

On January 20, 1912,[1] by unanimous consent, the Committee on Irrigation of Arid Lands was discharged form the further consideration of the bill (H. R 17251) to authorize further advances to the "reclamation fund" and for the issue and disposal of certificates of indebtedness in reimbursement therefor, and the bill was referred to the Committee on Ways and Means.

On August 9, 1919,[2] on motion of Mr. Moses P. Kinkaid, of Nebraska, by unanimous consent, the bill (H. R. 6425) to authorize advances to the reclamation fund and for the issue and disposal of certificates of indebtedness in reimbursement therefor, was transferred from the Committee on Ways and Means.

1740. Bills relating to the United States Customs Court are within the jurisdiction of the Committee on Ways and Means.

On February 3, 1926,[3] the bill (H. R. 7966) to provide the name by which the Board of General Appraisers and members thereof shall hereafter be known was reported by the Committee on Ways and Means.

1741. Recent history of the Committee on Appropriations, section 3 of Rule XI.

The Committee on Appropriations has jurisdiction of appropriations for the support of the Government.

Section 3 of Rule XI provides for the reference of subjects relating—

to appropriation of the revenue for the support of the Government to the Committee on Appropriations.

This committee consists of thirty-five members, having been increased from seventeen to twenty-one members in the revision of 1911,[4] and from twenty-one to its present membership in 1920,[5] coincident with the concentration of all appropriating authority in the committee.

Originally the Committee on Appropriations reported all general appropriation bills, and the rules adopted for the Forty-sixth Congress provided:

To appropriation of the revenue for the support of the Government—to the Committee on Appropriations.

In the Forty-sixth Congress authority to report the agricultural bill, diplomatic and consular bill, District of Columbia bill, army bill, navy bill, post office bill Indian bill, and river and harbor bill was transferred to the committees on Agriculture, Foreign Affairs, District of Columbia, Military Affairs, Naval Affairs, Post Offices and Post Roads, Indian Affairs, and Rivers and Harbors, respectively, the Committee on Appropriations retaining jurisdiction of the fortification, legislative, executive and judicial, pension, sundry civil, and deficiency bills only.

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[1] Second session Sixty-second Congress, Record, p. 1154.

[2] First session Sixty-sixth Congress, Record, p. 3745.

[3] First session Sixty-ninth Congress, House Report No. 184; Record, p. 3259.

[4] First session Sixty-second Congress, Record, pp. 11, 80.

[5] Second session Sixty-sixth Congress, Record, p. 8108.

This allocation of the general appropriation bills obtained from 1885 to July 1, 1920, when by an amendment to the rules adopted June 1, 1920[1] the House again[2] concentrated in the Committee on Appropriations the power to report all general appropriation bills and readopted the rule in the form provided by the revision of 1880.

1742. The Appropriations Committee reports appropriations in fulfillment of treaty stipulations with Indian Tribes.

The Committee on Appropriations reported in 1921,[3] the bill (15682) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes.

1743. The Committee on Appropriations having jurisdiction of all general appropriations, including deficiencies, has authority to report bills including items to be immediately available.

On December 17, 1920,[4] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the State of the Union when Mr. Louis C. Cramton, of Michigan, proposed an amendment providing an appropriation "to be available immediately."

Mr. Joseph Walsh, of Massachusetts, having raised a question of order on the amendment, Mr. James R. Mann, of Illinois, said in debate:

The Committee on Appropriations has authority to bring in appropriation bills and to make an item in an appropriation bill immediately available which is an appropriation for a deficiency. The Naval Committee can not do it, because it has no jurisdiction over deficiencies. The other appropriating committees can not provide an appropriation to be immediately available, because that is a deficiency and they have no jurisdiction over deficiencies. The Committee on Appropriations has jurisdiction over deficiencies. It has jurisdiction to report a bill which makes an item immediately available. but it seems to me that the last sentence in this amendment is subject to a point of order. This legislation provides under whose jurisdiction and direction the money shall be expended. That is clearly legislation. That is not an appropriation.

The Chairman[5] ruled:

It has been a number of times that an addition to an authorized building is in order on an appropriation bill. The Chair feels that the objection raised because of the words "to be immediately available" is not well founded, for it would appear that the immediate rendering available of funds is within the province of the Appropriations Committee.

The last clause, however, which states "it shall be under the direction of the Superintendent of Capitol Buildings and Grounds," in the opinion of the Chair taints the entire amendment, for it is legislation on an appropriation bill, and on this account the Chair sustains the point of order.[6]

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[1] Second session Sixty-sixth Congress, Record, p. 8121.

[2] This general jurisdiction of the Committee on Appropriations was first exercised in the third session of the Sixty-sixth Congress. The change in the general appropriation bills to conform to the budget law was made in the second session of the Sixty-seventh Congress.

[3] Third session Sixty-sixth Congress, Record, p. 1338; Report No. 1184.

[4] Third session Sixty-sixth Congress, Record, p. 494.

[5] Frederick C. Hicks, of New York, Chairman.

[6] Prior to delegation of exclusive jurisdiction of the general appropriation bills to the Committee on Appropriations, the phrase "immediately available" in connection with the provision that an appropriation reported by a committee other than the Committee on Appropriations should be "immediately available" rendered the item subject to a point of order as on the ground that the pending bill was for the fiscal year for which it provided only and a proposition to make an appropriation available for the current year and therefore prior to the fiscal year was in effect a deficiency appropriation and not within the jurisdiction of the committee reporting the bill.

Typical decisions to this effect were rendered by Chairman James B. Perkins of New York (Second session Sixtieth Congress, Record, p. 1700) Chairman Marlin E. Olmstead, of Pennsylvania (second session Sixty-first Congress, Record, p. 2095), and Chairman Benjamin G. Humphreys, of Mississippi (Second session Sixty-fifth Congress, Record, pp. 1880, 1896).

1744. To provide that an appropriation already made shall be available for a different purpose is an appropriation and exclusively within the jurisdiction of the Committee on Apppropriations.

On January 29, 1921,[1] the diplomatic and consular appropriation bill was under consideration in the Committee of the Whole House on the State of the Union. The Clerk read this paragraph:

For the expenses of the arbitration of outstanding pecuniary claims between the United States and Great Britain, in accordance with the special agreement concluded for that purpose August 18, 1910, and the schedules of claims thereunder, to be expended under the direction of the Secretary of State, and to be immediately available, as follows:

Mr. Thomas L. Blanton, of Texas, made the point of order that the phrase "to be immediately available" proposed legislation on a general appropriation bill.

In controverting the point of order, Mr. James R. Mann, of Illinois, said:

It is not new legislation. It is an appropriation. Now, that point of order used to be made on this bill and would have been in order, because the Committee on Foreign Affairs when it reported this bill had no authority to report a deficiency appropriation. But the Committee on Appropriations has authority to report deficiency appropriations, and to the extent that it is made immediately available it is a deficiency appropriation. But the point of order can not be made that the Committee on Appropriations can not report this, because they have the authority to report appropriations.

This feature we are considering has nothing to do with the particular subcommittee. We deal with the Committee on Appropriations. Now, the old rule was—and it was held many times on the sundry civil bill, coming from the Committee on Appropriations—that you could make an item immediately available. Of course, all the deficiency items are made immediately available without anything further. But the Committee on Appropriations is not required to report all of its deficiency items in one bill.

The Chairman,[2] concurring in the argument advanced by Mr. Mann, overruled the point of order.

1745. On August 11, 1921,[3] 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. 8107) to control importations of dyes and chemicals.

Thereupon, Mr. Joseph Walsh, of Massachusetts, raised a question of order against the following paragraph of the pending bill:

SEC. 3. That the appropriation "Collecting the revenue from customs, 1922," is hereby made available for the payment of salaries and all other expenditures incident to the operation of the Dye and Chemical Section, Division of Customs, Treasury Department, for the fiscal year ending June 30, 1922.

Mr. Walsh submitted that the paragraph provided an appropriation and was therefore not within the jurisdiction of the Committee On Ways and Means reporting the bill.

The Speaker[4] said:

The Chair will rule.

Section 3 of the bill reported by the Ways and Means Committee provides that the appropriation for collecting the revenue from customs for 1922 "is hereby made available for the pay-

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[1] Third session Sixty-sixth Congress, Record, p. 2278.

[2] Horace M. Towner, of Iowa, Chairman.

[3] First session Sixty-seventh Congress, Record, p. 4891.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

ment of salaries and all other expenditures incident tot he operation of the dye and chemical section, division of customs, Treasury Department, for the fiscal year ending June 30, 1922." To that section the gentleman from Massachusetts, Mr. Walsh, makes the point of order that it carries an appropriation reported by the Committee on Ways and Means, and that under the rules of the House that committee has no jurisdiction over appropriations. Clause 4 of Rule XXI prohibits any other than the Committee on Appropriations from bringing in or making appropriations.

The Speaker a few days ago sustained a point of order in the bollworm case in which it was sought to make an appropriation already made, already available in the Department of Agriculture, available for a new purpose by the Secretary of Agriculture. The point of order was made that that could not be done in a bill reported by the Committee on Agriculture, and the Speaker ustained the point of order. The gentleman from Ohio, Mr. Longworth, cities a decision made by the present occupant of the chair on the 23d of May of this year. That was an entirely different proposition. In that case an appropriation available for rations was transferred in a deficiency appropriation bill and reported by the appropriating committee to another purpose, and the Chair held that that transfer could be made. The committee reporting the deficiency appropriation bill, having full jurisdiction, could have reported an original appropriation for the purpose for which the transfer was made. And in that case the Chair overruled the point of order. In this case it seems clear to the Chair that section 3 is an infringement on the jurisdiction of the Committee on Appropriations, and therefore sustains the point of order.

1746. Recent history of the Committee on the Judiciary, Section 4 of Rule XI.

Section 4 of Rule XI provides for the reference of subjects relating—

to judicial proceedings, civil and criminal law to the Committee on the Judiciary.

There has been no change in the form of this rule since its adoption in the revision of 1880.[1]

The membership of the committee was increased from eighteen to twenty-one members in the revision of 1911.[2] In 1925[3] by unanimous consent it was increased to twenty-three for the duration of the Sixty-ninth Congress. In 1927[4] the increase was made permanent and remained unchanged until 1933[5] when it was increased to its present quota of twenty-five members.

1747. The punishment, prevention, and definition of crime and the organization of courts are subjects within the jurisdiction of the Committee on the Judiciary.

On January 6, 1908,[6] the resolution distributing the President's annual message referred to the Committee on the Judiciary so much of the administration of justice, to the punishment and prevention of crime, and to the organization of courts.

The Committee on the Judiciary have reported:

In 1919,[7] a bill to punish the transportation of stolen motor vehicles in interstate or foreign commerce.

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[1] Second session Forty-sixth Congress, Record, p. 205.

[2] First session Sixty-second Congress, pp. 11, 80.

[3] First session Sixty-ninth Congress, Record, p. 725.

[4] First session Seventieth Congress, Record, p. 13.

[5] First session Seventy-third Congress, Record, p. 6371.

[6] First session Sixtieth Congress Record, p. 510.

[7] Report No. 312.

In 1926,[1] a bill to prevent the purchase and sale of any public office.

In 1926,[2] a bill amending a section of the Criminal Code of the United States.

In 1921,[3] and 1924,[4] bills to assure to persons within the jurisdiction of every state the equal protection of the laws and to punish the crime of lynching.

On February 23, 1924,[5] pending a motion of adjourn, the Speaker[6] said:

The Chair has had called to his attention a bill obviously by mistake of the Chair misreferred, and without objection the Chair will rerefer to the Judiciary Committee the Bill H.R. 7189, which was referred to the District of Columbia Committee.

It is a bill making the possession of a firearm or other deadly weapon while engaged in the unlawful manufacture, transportation, or sale of liquor a felony. It applies to the whole country and not simply to the District of Columbia.

There being no objection the transfer was ordered as indicated.

1748. The protection of trade and commerce against unlawful restraints and monopolies is a subject within the jurisdiction of the Committee on the Judiciary.

On May 26, 1911,[7] upon suggestion of the Speaker,[8] by unanimous consent, the Committee on Interstate and Foreign Commerce was discharged from further consideration of the bill (H. R. 10508) to protect trade and commerce against unlawful restraints and monopolies, and the bill was referred to the Committee on the Judiciary.

1749. Bills relating to trusts and monopolies (except common carriers) come within the jurisdiction of the Committee on the Judiciary.

On December 18, 1919,[9] Mr. Andrew J. Volstead, of Minnesota, asked unanimous consent that the Committee on Interstate and Foreign Commerce be discharged from further consideration of the joint resolution (S. J. Res. 46) extending until July 20, 1920, the effective date of section 10 of the act entitled "An act to supplement the existing laws against unlawful restraint and monopolies," approved October 15, 1914, and the joint resolution be referred to the Committee on the Judiciary.

There was no objection.

1750. Appointment of Federal judges and other court officials and legislation pertaining to their salaries are subjects within the jurisdiction of the Committee on the Judiciary.

The Committee on the Judiciary reported:

In 1926,[10] a bill for the appointment of certain additional judges of the United States.

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[1] Report No. 1366.

[2] Report No. 939.

[3] First session Sixty-seventh Congress, Report No. 452.

[4] First session Sixty-eight Congress, Report No. 71.

[5] First session Sixty-eight Congress, Record, p. 3031.

[6] Frederick H. Gillett, of Massachusetts, Speaker.

[7] First session Sixty-second Congress, Record, p. 1610.

[8] Champ Clark, of Missouri, Speaker.

[9] Second session Sixty-sixth Congress, Record, p. 858.

[10] First session Sixty-ninth Congress, Report No. 872.

In 1926,[1] a bill to authorize the appointment of stenographers in the Courts of the United States and to fix their duties and compensation.

In 1926,[2] bills to fix the salaries of certain judges of the United States.

In 1926,[3] a bill relative to fees of clerks of United States Courts.

Also,[4] a bill providing for drawing of jurors in the District of Columbia.

1751. Punishment of sedition, espionage, and seditious interference with foreign relations and commerce are subjects within the jurisdiction of the Committee on the Judiciary.

The Committee on the Judiciary reported:

In 1917,[5] a bill to punish acts of interference with foreign relations, the neutrality and the foreign commerce of the United States; to punish espionage and to better enforce the criminal laws of the United States.

In 1920,[6] a bill to prohibit and punish certain seditious acts against the Government of the United States and to prohibit the use of the mails for the purpose of promoting such acts.

1752. The Committee on the Judiciary has reported general legislation as to claims against the United States and as to procedure and jurisdiction of the Court of Claims.

Discussions of the Tucker and Bowman Acts.

The Committee on the Judiciary reported:

In 1910,[7] a bill providing for the right of appeal in Indian cases in the Court of Claims.

In 1920,[8] a bill to confer jurisdiction on the Court of Claims to certify certain findings of fact.

In 1925,[9] a bill conferring jurisdiction upon the Court of Claims of the United States or the district courts of the United States to hear, adjudicate, and enter judgment on the claims of certain citizens in the United States.

In 1910,[10] a bill amending the Tucker Act approved March 3, 1887, which with the Bowman Act,[11] approved March 3, 1883, provided for the bringing of suits against the United States.

1753. The Committee on the Judiciary has jurisdiction of the general subject of counterfeiting.

The Committee on the Judiciary reported:

In 1926,[12] a bill amending the Criminal Code of the United States relating to the counterfeiting of postage and revenue stamps.

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[1] First session Sixty-ninth Congress, Report No. 924.

[2] First session Sixty-ninth Congress, Reports No. 629, No. 232, No. 792.

[3] First session Sixty-ninth Congress, Report No. 1082.

[4] Report No. 209.

[5] Second session Sixty-fifth Congress, Report No. 30.

[6] Second session Sixty-sixth Congress, Report No. 542.

[7] Second session Sixty-first Congress, Report No. 968.

[8] Second session Sixty-sixth Congress, Report No. 933.

[9] Second session Sixty-eighth Congress, Report No. 1526.

[10] Second session Sixty-first Congress, Record, p. 721.

[11] First session Sixtieth Congress, Record, p. 3020; Second session Sixty-first Congress, Record, p. 3491; Third session Sixty-first Congress, Record, p. 2625.

[12] First session Sixty-ninth Congress, Report No. 939.

In 1926,[1] a bill to punish counterfeiting of Government transportation requests.

1754. Jurisdiction of legislation providing penalties for commercial bribery and other corrupt trade practices belongs to the Committee on the Judiciary.

On April 6, 1920,[2] on motion of Mr. Andrew J. Volstead, of Minnesota, by unanimous consent, the bill (H. R. 263) to protect interstate commerce against bribery and other corrupt trade practices was transferred from the Committee on Interstate and Foreign Commerce to the Committee on the Judiciary.

1755. Legislation relating to juvenile offenders in the District of Columbia is considered by the Committee on the Judiciary.

The Committee on the Judiciary reported:

In 1909,[3] the bill (H. R. 27425) to provide for the parole of juvenile offenders committed to the National Training School for Boys, Washington, DC.

1756. The study of criminal, pauper, and defective classes is a subject under jurisdiction of the Committee on the Judiciary.

The Committee on the Judiciary reported, in 1909,[4] the bill (H. R. 16733) to establish a laboratory for the study of the criminal, pauper, and defective classes.

1757. Bills proposing punishment of crimes against interstate or foreign shipments belong within the jurisdiction of the Committee on the Judiciary.

The Committee on the Judiciary reported, in 1912,[5] the bill (H. R. 16450) to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles in process of transportation in interstate shipment, and the felonious transportation of such freight or express packages or baggage or articles therefrom, into another district of the United States and the felonious reception or possession of the same.

1758. Provision for payment of reward for information as to violation of a statute was reported by the Committee on the Judiciary.

The Committee on the Judiciary reported, in 1912,[6] the bill (H. R. 20194) to provide payment of rewards for information as to violation of the antitrust act of 1890 and amendments thereto.

1759. Propositions relative to the constitutionality of bills pending in the House, and questions as to the constitutionality of recommendations submitted by the President, are subjects within the jurisdiction of the Committee on the Judiciary.

On February 13, 1908,[7] the resolution distributing to the committees of the House a message from the President of the United States, apportioned that part of the message relating to "the acquisition of lands in the Southern Appalachian

[1] First session Sixty-ninth Congress, Report No. 212.

[2] Second session Sixty-sixth Congress, Record, p. 5253.

[3] Second session Sixtieth Congress, Record, p. 1821; Report No. 2029.

[4] Second session Sixtieth Congress, Record, p. 2115; Report No. 2087.

[5] Second session Sixty-second Congress, Record, p. 3290; Report No. 415.

[6] Second session Sixty-second Congress, Record, p. 9043; Report No. 993.

[7] First session Sixtieth Congress, Record, p. 2032.

and White Mountains for the use of Nation," to the Committee on the Judiciary for the purpose of considering the constitutionality of the recommendation.

The Committee on the Judiciary reported, in 1908 [1] the resolution (H. Res. 365) relative to the constitutionality of H. R. 10456 and H. R. 10457, bills for the acquirement of national forests in the Southern Appalachian and White Mountains.

1760. Subjects relating to the jurisdiction of the courts are referred to the Committee on the Judiciary.

The Committee on the Judiciary reported, in 1910,[2] the bill (H. R. 23002) to amend an act of August 13, 1888, relating to the determination of the jurisdiction of the circuit courts of the United States, and to regulate the removal of causes from the State courts.

1761. Provisions for establishment of code of law of the District of Columbia are under the jurisdiction of the Committee on the Judiciary.

The Committee on the Judiciary reported, in 1919,[3] the bill (H. R. 6025) to amend the act to establish a code of law for the District of Columbia, approved March 3, 1901, and the acts amendatory thereof and supplemental thereto.

1762. Legislation construing acts of Congress is within the jurisdiction of the Committee on the Judiciary.

Provision of law construing and interpreting existing statutes has been reported by the Committee on the Judiciary as follows:

In 1920,[4] the joint resolution (H. J. Res. 373) declaring that certain acts of Congress, joint resolutions, and proclamations shall be construed as if the war had ended and the present or existing emergency expired.

1763. Bills of incorporation are referred to the Committee on the Judiciary.

The Committee on the Judiciary reports on bills creating corporations. The committee reported:

In 1921,[5] the bill (H. R. 16043) to authorize the incorporation of companies to promote trade in China.

In 1921,[6] the bill (H. R. 16043) to amend an act approved March 3, 1981, incorporating the National Conservatory of Music of America.

In 1919,[7] bills to incorporate the American Legion and the Veterans of Foreign Wars.

On April 23, 1920,[8] Mr. Mahlon M. Garland, of Pennsylvania, submitted a request for unanimous consent for the transfer from the Committee on the Judiciary to the Committee on the District of Columbia, of the bill (H. R. 2660) incorporating the Supreme Lodge of the Loyal Order or Moose.

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[1] First session Sixtieth Congress, Report No. 1514.

[2] Second session Sixty-first Congress, Record, p. 3790; Report No. 832.

[3] Second session Sixty-sixth Congress, Record, p. 352; Report, No. 481.

[4] Second session Sixty-sixth Congress, Record, p. 8303; Report No. 1087.

[5] Second session Sixty-sixth Congress, Report No. 1312.

[6] Third session Sixty-sixth Congress, Report No. 1171.

[7] First session Sixty-sixth Congress, House Report No. 191.

[8] Second session Sixty-sixth Congress, Record, p. 6104.

In debating the request, Mr. Warren Gard, of Ohio, said:

Mr. Speaker, there seems to be an unfortunate confusion about these incorporation matters. Simply because they sometimes contain a clause to be incorporated in the District of Columbia some of them have been sent to the Committee on the District of Columbia. That is no reason for sending these matters to the Committee on the District of Columbia. They are primarily matters of incorporation.

The request for the change of reference was thereupon denied.

On February 24, 1911,[1] upon suggestion of the Speaker,[2] the Committee on the Library was discharged from the consideration of the bill (H. R. 32907) to incorporate the National McKinley Birthplace Memorial Association, and the bill was referred to the Committee on the Judiciary.

1764. Matters relating to the investigation and regulation of trusts and corporations are within the jurisdiction of the Judiciary Committee.

On January 13, 1914.[3] the resolution distributing the President's annual message gave to the Committee on the Judiciary the portions of the message referring to "so much as relates to trust legislation."

The Committee on the Judiciary reported, in 1914,[4] a bill known as the Clayton Anti-Trust Act, relating to the protection of trade and commerce against unlawful restraints and monopolies.

1765. Bills authorizing associations of producers of agricultural products and limiting the effect of the Clayton Antitrust Act with reference to agricultural associations have been reported by the Judiciary Committee.

The Committee on the Judiciary reported, in 1920[5] and 1921,[6] bills to authorize the association of producers of agricultural products.

1766. The Committee on the Judiciary has reported resolutions requesting information from the executive regarding price fixing in violation of law.

The Committee on the Judiciary reported:

In 1919,[7] the resolution (H. Res. 394) requesting the Attorney General to furnish to the House of Representatives certain information regarding the fixing of the price of sugar.

In 1920,[8] the resolution (H. Res. 521) directing the Federal Trade Commission to investigate whether any corporation is violating the antitrust laws touching sugar.

In 1920,[9] the resolution (H. Res. 501) authorizing and directing the Attorney General to investigate the price of oil report to the House of Representives.

1767. The Committee on the Judiciary have exercised jurisdiction of bills relating to insular courts.

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[1] Third session Sixty-first Congress, Record p. 3311.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Second session Sixty-third Congress, Record, p. 1592.

[4] Second session Sixty-third Congress, Report No. 627.

[5] Second session Sixty-sixth Congress, Report No. 939.

[6] First session Sixty-seventh Congress, Record, No. 24.

[7] First session Sixty-sixth Congress, Record p. 498; Report No. 496.

[8] Second session Sixty-sixth Congress, Record, p. 6013; Report No. 861.

[9] Second session Sixty-sixth Congress, Record, p. 4843; Report No. 763.

The Committee on the Judiciary reported, in 1912,[1] the bill (H. R. 10169) to provide for holding the District Court of the United States for Porto Rico during the absence from the island of the United States District judge and for the trial of cases in event of the disqualification of or inability to act by the said judge.

1768. Bills relating to jurisdiction of boundary waters between the States or within the several States are reported by the Committee on the Judiciary.

The Committee on the Judiciary reported:

The 1921,[2] the joint resolution (S. J. Res. 233) giving consent of the Congress of the United States to the States of North Dakota, South Dakota, Minnesota, Wisconsin, Iowa, and Nebraska, or any two or more of said states, to agree upon the jurisdiction to be exercised by said states over boundary waters between any two or more of said states.

In 1921,[3] the bill (H. R. 6877) to permit a compact or agreement between the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming respecting the disposition and apportionment of the waters of the Colorado River.

1769. The Committee on the Judiciary have exercised jurisdiction over subjects pertaining to relations of workmen to employers.

The Committee on the Judiciary reported:

In 1910,[4] the joint resolution (H. J. Res. 127) for the appointment of a commission to investigate the matter of employers' liability and workmen's compensation.

In 1927,[5] a bill providing compensation for viability or death resulting from injury to employees in certain maritime employments.

On January 13, 1914,[6] the resolution distributing the President's annual message gave the Committee on the Judiciary the portions referring the "so much as relates to the employers' liability act."

1770. The Committee on the Judiciary has reported bills relating to the meeting of Congress.

On January 6, 1910,[7] at the instance of the Speaker,[8] by unanimous consent the bill (H. R. 16379) fixing the date for the assembling of Congress was transferred from the Committee on the Election of President, Vice President, and Representatives in Congress to the Committee on the Judiciary.

1771. The Committee on the Judiciary exercises jurisdiction over legislation regulating legal process and procedure relating to vessels in foreign jurisdictions.

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[1] Second session Sixty-second Congress, Record, p. 5514; Report No. 614.

[2] Third session Sixty-sixth Congress, Record, p. 3009; Report No. 1376.

[3] First session Sixty-seventh Congress, Record, p. 2739; Report No. 191.

[4] Second session Sixty-first Congress, Record, p. 7328; Report No. 1436.

[5] Second session Sixty-ninth Congress, Report No. 1767.

[6] Second session Sixty-third Congress, Record, p. 1592.

[7] Second session Sixty-first Congress, Record, p. 372.

[8] Joseph G. Cannon, of Illinois, Speaker.

The Committee on the Judiciary reported, in 1919,[1] the bill (S. 3076) authorizing suits against the United States in admiralty, suits for salvage services,and providing for the release of merchant vessels belonging to the United States from arrest and attachment in foreign jurisdictions.

The Committee on the Judiciary exercises jurisdiction over admiralty and maritime matters.

In 1926,[2] the Committee on the Judiciary reported subjects pertaining to the bill (H. R. 12063) providing a workman's compensation law for employees in certain maritime employments.

1772. Legislation relating to the organization of a branch of the Government, and to the government of a territory is within the jurisdiction of the Committee on the Judiciary.

The Committee on the Judiciary reported:

In 1920,[3] a joint resolution to create a joint committee on the reorganization of the administrative branch of the Government.

In 1920,[4] a bill to amend an act entitled "An act making further provision for a civil government for Alaska" and an act entitled "An act to provide a government for the Territory of Hawaii."

1773. Enforcement and administration of national prohibition laws is a subject under the jurisdiction of the Judiciary Committee.

The Committee on the Judiciary reported:

In 1919,[5] the national prohibition law, known as the Volstead Act.

In 1921 [6] and 1926,[7] bills supplemental to the national prohibitional act.

In 1926,[8] a resolution (adversely) directing the Secretary of the Treasury to furnish certain information relative to the violation of the National Prohibition Act.

Also,[9] a bill placing under civil service the personnel of the prohibition unit of the Treasury Department.

Also,[10] a resolution of inquiry relative to violations of the national prohibition act.

1774. Bills providing protection for the uniform of friendly nations are under the jurisdiction of the Committee on the Judiciary.

On June 11, 1918,[11] on motion of Mr. Hubert S. Dent, Jr., of Alabama, Chairman of the Committee on Military Affairs, by unanimous consent, the bill (S. 4277) providing for the protection of the uniform of friendly nations was transferred from the committee to the Committee on the Judiciary.

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[1] Second session Sixty-sixth Congress, Record, p. 498; Report No. 497.

[2] First session Sixty-ninth Congress, H. Rept. No. 1190.

[3] Second session Sixty-sixth Congress, Record, p. 6893; Report No. 959.

[4] Second session Sixty-sixth Congress, Record, p. 6970; Report No. 968.

[5] First session Sixty-sixth Congress, Rept. No. 91.

[6] First session Sixty-seventh Congress, Report No. 224.

[7] First session Sixty-ninth Congress, Report No. 1447.

[8] First session Sixty-ninth Congress, Report No. 1318.

[9] Report No. 1448.

[10] Report No. 1373.

[11] Second session Sixty-fifth Congress, Record, p. 7627.

1775. The Committee on the Judiciary has exclusive jurisdiction of bills providing for the adoption of a national anthem.

On March 23, 1916,[1] Mr. Edwin Yates Webb, of North Carolina, Chairman of the Committee on the Judiciary, asked unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H. R. 437) making "The Star-Spangled Banner" the national anthem, and that the same be referred to the Committee on the Library.

Mr. James R. Mann, of Illinois, objected to the request, and bills relating to the subject have since [2] been uniformly referred to the Committee on the Judiciary.

1776. A bill limiting effects of regulating Interstate and Foreign Commerce was transferred to the Committee on the Judiciary.

On December 12, 1907,[3] on suggestion of the Speaker,[4] by unanimous consent, the bill (H. R. 297) to limit the effect of the regulation of commerce between the several States and with foreign countries in certain cases was transferred from the Committee on Interstate and Foreign Commerce to the Committee on the Judiciary.

1777. General Legislation for the relief of Government employees injured in the discharge of their official duties is within the jurisdiction of the Committee on the Judiciary and not the Committee on Claims.

On May 4, 1910,[5] at the instance of the Speaker,[6] the bill (H. R. 17420) for the relief of laborers, mechanics, and other employees of the United States Government injured, and the families of those killed, without fault of their own, while in the discharge of their duties, was taken from the Committee on Claims and referred to the Committee on the Judiciary.

1778. The Committee on the Judiciary considers legislation relating to settlement of questions of law in dispute between executive officers of the Government.

The Committee on the Judiciary considered, in 1924,[7] the bill (H. R. 7621) to provide for the final settlement of questions of law in dispute between the Comptroller General and other executive officers of the Government.

1779. The Committee on the Judiciary has a general but not exclusive jurisdiction over joint resolutions proposing amendments to the Constitution of the United States.

The Committee on the Judiciary considered, in 1924,[8] the joint resolution (H. J. Res. 184) proposing an amendment to the Constitution of the United States providing for legislation regulating child labor.

1780. A joint resolution proposing a constitutional amendment authorizing mutual taxation of salaries between State and Federal Governments

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[1] First session Sixty-fourth Congress, Record, p. 4731.

[2] First session Sixty-ninth Congress, Record, pp. 396, 399.

[3] First session Sixtieth Congress, Record, p. 304.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] Second session Sixty-first Congress, Record, p. 5815.

[6] Joseph G. Cannon, of Illinois, Speaker.

[7] First session Sixty-eighth Congress, Record, p. 3598.

[8] First session Sixty-eighth Congress, Record, p. 2411.

was held to come within the jurisdiction of the Committee on the Judiciary rather than that of the Committee on Ways and Means.

On January 23, 1932,[1] Mr. Henry T. Rainey, from the Committee on Ways and Means, by direction of that committee, asked unanimous consent that the joint resolution (H. J. Res. 185) proposing an amendment to the Constitution of the United States, permitting the taxation of Federal salaries by the States and the taxation of State salaries by the Federal Government, be transferred from the Committee on Ways and Means to the Committee on the Judiciary.

There was no objection.

1781. The sale of fraudulent stocks and bonds and other "blue sky" securities is a subject considered by the Committee on the Judiciary.

The Committee on the Judiciary has considered:

In 1920,[2] the bill (H. R. 12603) to prevent fraud respecting securities offered for sale and to provide a summary proceeding therefor.

In 1922,[3] the bill (H. R. 10598) to prevent the use of the United States mails and other agencies of interstate commerce for transporting and for promoting or procuring the sale of securities contrary to the laws of the states and providing penalties for the violation thereof.

1782. Bills relating to the fraudulent or unethical sale of securities were taken from the Committee on Interstate and Foreign Commerce and referred to the Committee on the Judiciary.

On February 1, 1932,[4] on motion of Mr. Fiorello H. LaGuardia, of New York, by unanimous consent, the Committee on Interstate and Foreign Commerce was discharged from the further consideration of a bill which he had introduced, the bill (H. R. 4), to protect banking and commerce against short sales of securities issued by corporations engaged therein, and a similar bill (H. R. 4638) introduced by Mr. Adolph J. Sabath, of Illinois, and both were referred to the Committee on the Judiciary which Mr. LaGuardia explained had under consideration a number of bills of the same character.

1783. A bill legalizing the conveyance of public lands was considered to be within the jurisdiction of the Committee of the Judiciary.

On February 6, 1912,[5] on suggestion of the Speaker,[6] by unanimous consent, the bill (H. R. 16689) legalizing certain conveyances heretofore made by the Union Pacific Railway Co. was taken from the Committee on Public Lands and referred to the Committee on the Judiciary.

1784. Conferring of jurisdiction relative to determination of rights of American citizens under treaties or in international litigation is a subject within the jurisdiction of the Committee on the Judiciary.

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[1] First session Seventy-second Congress, Record, p. 2568.

[2] Second session Sixty-sixth Congress, Record, p. 3106.

[3] Second session Sixty-seventh Congress, Record, p. 3326; H. Report No. 760.

[4] First session Seventy-second Congress, Record, p. 3053.

[5] Second session Sixty-second Congress, Record, p. 1774.

[6] Champ Clark, of Missouri, Speaker.

On April 8, 1910,[1] on motion of Mr. David J. foster, of Vermont, by unanimous consent the Committee on Foreign Affairs was discharged from the consideration of the bill (S. 3916) to confer jurisdiction upon the circuit court of the United States for the ninth circuit to determine in equity the rights of American citizens under the award of the Bering Sea arbitration of Paris and to render judgment thereon, and the bill was referred to the Committee on the Judiciary.

1785. The compensation of Federal employees injured in performance of duty and the administration of the united States Employees Compensation Commission are subjects within the jurisdiction of the Committee on the Judiciary.

The Committee on the Judiciary reported:

In 1926,[2] a bill providing compensation for employees of the United States suffering injuries while in the performance of their duties.

In 1926,[3] bills amending the Federal Employees Compensation Act approved September 7, 1916.

In 1926,[4] a bill to provide compensation for employees injured and dependents of employees killed in certain maritime employment and providing for administration by the United States Employees Compensation Commission.

1786. A bill amending the national bank act was by consent referred to the Committee on the Judiciary.

On March 5, 1924,[5] the Speaker[6] called attention to the bill (S. 2209) to amend section 5147 of the Revised Statutes relating to the oath required fro directors of national banks, and said:

> The Chair referred to the Committee on Banking and Currency Senate bill 2209. The chairmen of both the Banking and Currency Committee and the Judiciary Committee agree that this bill should have gone to the Committee on the Judiciary, and the Chair agrees with them. Therefore, without objection, the Chair will rerefer the bill to the Committee on the Judiciary.

By unanimous consent the bill was thereupon referred to the Committee on the Judiciary.

1787. A resolution providing for investigation with a view to impeachment was transferred from the Committee on Rules to the Committee on the Judiciary.

On February 3, 1925,[7] Mr. Bertrand H. Snell, of New York, chairman of the Committee on Rules, by direction of that committee, submitted a request that the resolution (H. Res. 402) providing that the Committee on the Judiciary of the House be instructed to investigate charges in the St. Louis Post-Dispatch against George W. English, United States judge for the eastern judicial district of Illinois, and Charles B. Thomas, referee in bankruptcy appointed by him, be transferred from the Committee on Rules to the Committee on the Judiciary.

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[1] Second session Sixty-first Congress, Record, p. 4404.

[2] First session Sixty-fourth Congress, Report No. 678.

[3] First session Sixty-ninth Congress, Reports No. 936, No. 1355.

[4] First session Sixty-ninth Congress, Report No. 1190.

[5] First session Sixty-eighth Congress, Record, p. 3630.

[6] Frederick H. Gillett, of Massachusetts, Speaker.

[7] Second session sixty-eighth congress, Record, p. 2940.

There being no objection, the resolution was by unanimous consent referred as requested.

1788. The Committee on the Judiciary exercises the jurisdiction over propositions relating to Government contracts.

In 1927,[1] the Committee on the Judiciary reported a bill requiring that public projects be constructed by contracts awarded on competitive bids.

[1] Second session Sixty-ninth Congress, H. Rept. No. 1629.

Chapter CCXXIX. [1]

HISTORY AND JURISDICTION OF THE STANDING COMMITTEES—Continued.

1789. Recent history of the Committee on Banking and Currency, section 5 of Rule XI.

Section 5 of Rule XI provides for the reference of subjects relating to banking and currency to the Committee on Banking and Currency.

This rule was adopted in its present form in the revision of 1880 [2] and has been continued unchanged by each succeeding Congress.

On December 3, 1907, [3] upon suggestion by the Speaker, [4] by unanimous consent, the membership of the committee was increased from eighteen to nineteen members. This increase was confirmed by Order No. 1 adopted a few days later [5] on motion of Mr. John Dalzell, of Pennsylvania. In 1911, [6] the committee was again increased bringing the number of members to twenty-one, and in 1933, [7] to twenty-five, its present membership.

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[1] Supplementary to Chapter C.

[2] Second session Forty-sixth Congress, Record, p. 205.

[3] First session Sixtieth Congress, Record, p. 112.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] Record, p. 356.

[6] First session Sixty-second Congress, Record, pp. 11, 80.

[7] First session Seventy-third Congress, Record, p. 6371.

1790. Legislation relating to national banks, including bills granting charters to such banks, and providing penalties for their mismanagement, is within the jurisdiction of the Committee on Banking and Currency.

The Committee on Banking and Currency reported:

In 1910,[1] a bill to equalize the rate of taxation on national-bank circulation secured by deposits of United States bonds with the Treasurer of the United States by national banks.

In 1910,[2] a bill to make it a felony for any officer of any national bank or banking institution to receive any deposit of money or other valuable property after such officer has knowledge that such bank is insolvent or in failing condition.

In 1913,[3] a bill granting a national bank the right to use an original charter.

In 1922[4] the bill (H.R. 11939) and 1926[5] the bill (H.R. 9958) being amendments to Section 5219 Revised Statutes of the United States, to regulate the State taxation of National banks.

In 1924[6] the bill (H.R. 8887) and in 1926[7] a similar bill (H.R. 2), giving indeterminate charters to National and Federal reserve banks, providing for direct consolidation and conversion of State and National banks, allowing branches of National and member banks in cities, and other modifications of the National bank and Federal reserve systems.

1791. Subjects relating to rural credits and farm-loan legislation, including the extension of rural-credit legislation to the territories, come within the jurisdiction of the Committee on Banking and Currency.

The resolution distributing the President's annual message agreed to January 13, 1914,[8] referred so much of the message as related "to rural credits and banking and currency" to the Committee on Banking and Currency.

On January 25, 1916,[9] on motion of Mr. Patrick D. Norton, of North Dakota, by unanimous consent, the bill for the establishment of a farm credit bureau in the Department of Agriculture, to reduce the rate of interest of farm mortgages, and to encourage agriculture and the ownership of farm homes, was transferred from the Committee on Agriculture to the Committee on Banking and Currency.

The Committee on Banking and Currency reported:

In 1916,[10] bills to provide capital for agricultural development, to create standard forms of investment based upon farm mortgages, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, and to create financial agents for the United States.

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[1] Second session Sixty-first Congress, Record, p. 3987; Report, No. 899.

[2] Second session Sixty-first Congress, Record, p. 5177; Report, No. 1090.

[3] Third session Sixty-second Congress, Record, p. 1529; Report, No. 1297.

[4] Second session Sixty-seventh Congress, Record p. 8437, Report No. 1078.

[5] First session Sixty-ninth Congress, Record p. 5442, Report No. 526.

[6] First session Sixty-eighth Congress, Record p. 7321, Report No. 583.

[7] First session Sixty-ninth Congress, Record p. 1935, Report No. 83.

[8] Second session Sixty-third Congress, Record, p. 1592.

[9] First session Sixty-fourth Congress, Record, p. 1542.

[10] First session Sixty-fourth Congress, Reports No. 630, No. 643.

In 1921,[1] the bill (S. 4664) to amend the act of Congress approved July 17, 1916, known as the Federal farm loan act, as amended by the act of Congress approved April 20, 1920.

On January 22, 1918,[2] on motion of Mr. William Sulzer, of New York, by unanimous consent, the Committee on the Territories was discharged from consideration of the bill (H. R. 8419) providing for the extension of the provisions and benefits of the Federal farm loan act to the Territory of Alaska, and the same was referred to the Committee on Banking and Currency.

In 1920,[3] the bill (H. R. 8038) extending the provisions and benefits of the Federal farm loan act to the Territory of Porto Rico.

In 1923,[4] the bill (S. 4280) to further regulate farm loans through the adoption of the Agricultural Credits Act of 1923, establishing the Intermediate Credit banks under the Farm Loan Board and the National Agricultural Credit Corporations under the Comptroller of the Currency.

In 1926,[5] the bill (S. 2606) to prohibit offering for sale as Federal farm loan bonds any securities not issued under the terms of the Farm Loan act, to limit the use of the words "Federal," "United States," or "reserve," or a combination of such words, to prohibit false advertising, and for other purposes.

1792. The Banking and Currency Committee exercises jurisdiction of bills establishing legal tender, stabilizing currency and maintaining parity of moneys issued.

The Committee on Banking and Currency reported:

In 1919,[6] a bill to make gold certificates of the United States payable to bearer on demand, legal tender.

In 1916,[7] bills to define and fix the standard of value, to maintain the parity of all forms of moneys issued or coined by the United States.

1793. Legislation relating to establishment and operation of Federal Reserve Banks, including authorization of construction of Federal Reserve bank buildings, belongs within the jurisdiction of the Committee on Banking and Currency.

The Committee on Banking and Currency reported:

In 1913,[8] the bill (H. R. 7837) to provide for the establishment of Federal Reserve Banks, for furnishing an elastic currency, affording means of rediscounting commercial paper, and to establish a more effective supervision of banking in the United States.

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[1] Third session Sixty-sixty Congress, Report No. 1394.

[2] Second session Sixty-fifth Congress, Record, p. 1145.

[3] First session Sixty-sixth Congress, Record p. 4157, Report No. 733.

[4] Second session Sixty-seventh Congress, Record p. 4588, Report No. 1712.

[5] First session Sixty-ninth Congress, Record p. 8652, Report No. 1065.

[6] Second session Sixty-sixth Congress, Record, p. 352; Report, No. 486.

[7] First session Sixty-fourth Congress, Reports No. 448, No. 1181.

[8] First session Sixty-third Congress, Record, p. 4633; Report No. 69.

In 1916 [1] and 1921,[2] bills to amend the act approved December 23, 1913, known as the Federal Reserve Act, as amended by the acts approved September 7, 1916, and March 3, 1919.

In 1922,[3] a bill (S. 2263) to increase the membership of the Federal Reserve Board by adding a member to represent agriculture and providing that no Federal reserve bank building be erected at a cost exceeding $250,000 without express authorization of Congress.

On August 25, 1922,[4] Mr. John W. Langley, of Kentucky, as a parliamentary inquiry, raised a question of order against the reference to the Committee on Banking and Currency of the joint resolution (H. J. Res. 234) authorizing the Federal Reserve Bank at Atlanta, Georgia, to enter into contracts for the construction of a branch bank in Jacksonville, Florida, and submitted that the bill should have been referred to the Committee on Public Buildings and Grounds.

The Speaker [5] said:

The Chair prefers now to state the ground on which he acted. The Chair assumed that unless there had been some Federal statute any Federal reserve bank would have the right, without any action of the Committee on Public Buildings and Grounds or of Congress, to construct a building; but there was an act passed by Congress, reported, the Chair believes, from the Committee on Banking and Currency, which forbade Federal reserve banks to build any buildings except under certain conditions. Therefore, simply because of that statute, which was reported by the Committee on Banking and Currency, it is necessary to come to Congress when a Federal reserve bank wishes to erect a building and ask that that previous statute be waived. In this case that was all that was asked, and the previous statute having been reported from the Committee on Banking and currency, the Chair naturally referred the exception to that statute to the same committee. The Chair has stated the ground on which he acted and he hardly thinks it is worth while for the House to take its time on the matter until the question comes before the House for its action.

Mr. Otis W. Wingo, of Arkansas, interpolated:

If the Chair will permit me, the proposition is not to waive the statute. For the purposes of the Record I will state that the Federal reserve banks get their charters from the Government, and for that reason the Government can put restrictions on the handling of their funds, which are trust funds largely. We passed the statute which the Speaker refers to, which provides that whenever any Federal reserve bank desires to erect a building to cost more than a quarter of a million dollars, it must get the consent of Congress. Now, if we wanted to do so, we would have the power to say that no national bank should erect a building without getting the consent of Congress. Certainly a bill to provide that would not go to the Committee on Public Buildings and Grounds. That committee would have no jurisdiction of the matter.

The Speaker continued:

The Chair may have inadvertently used the wrong word when he spoke of waiving the statute. What the Chair meant was that the bill provided for an exemption from the statute.

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[1] First session Sixty-fourth Congress, Report No. 447.

[2] Third session Sixty-sixth Congress, Report No. 69.

[3] Second session Sixty-seventh Congress, Record, p. 5206, Report No. 885.

[4] Second session Sixty-seventh Congress, Record, p. 11793.

[5] Frederick H. Gillett, of Massachusetts, Speaker.

1794. The Committee on Banking and Currency has reported on the designation of depositories of public moneys.

The Committee on Banking and Currency reported, in 1921,[1] a joint resolution authorizing the Secretary of the Treasury to designate depositories of public moneys in foreign countries and in the Territories and insular possessions of the United States.

1795. The administration of the War Finance Corporation, the provision of credits for essential industries, and the supervision of the issuance of related securities are subjects within the jurisdiction of the Committee on Banking and Currency.

The Committee on Banking and Currency reported:

In 1921,[2] a bill proposing to amend the War Finance Corporation Act[3] to provide for the national security and defense, to provide credits for industries and enterprises in the United States necessary or contributory to the prosecution of the war and to supervise the issuance of securities.

In 1922,[4] a bill further amending the War Finance Corporation Act, approve April 5, 1919, and amended by the act approved August 24, 1921.

1796. Bills providing for stabilization of currency, formerly held to be within the jurisdiction of the Committee on Coinage, Weights, and Measures, are now considered by the Committee on Banking and Currency.

In 1921,[5] the Committee on Coinage, Weights, and Measures considered the bill (H. R. 4396) to stabilize the purchasing power of the dollar, but on May 25, 1922,[6] on motion of Mr. Thomas Alan Goldsborough, of Maryland, by unanimous consent, the bill was transferred from the Committee on Coinage, Weights, and Measures, to the Committee on Banking and Currency, to which all bills relating to the subject have since been referred.

1797. Recent history of the Committee on Coinage, Weights, and Measures, Section 6 of Rule XI.

Section 6 of Rule XI provides for the reference of subjects relating—

to coinage, weights, and measures, to the Committee on Coinage, Weights, and Measures.

The form of this rule has remained unchanged since the revision of 1880.[7]

The committee now consists of twenty-one members, having been increased from seventeen members to eighteen by the adoption of Order No. 1, offered by Mr. John Dalzell, of Pennsylvania, in 1907,[8] and from eighteen to twenty-one in 1933.[9]

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[1] First session Sixty-seventh Congress, Record, p. 1240; Report No. 56.

[2] First session Sixty-seventh Congress, Report No. 340.

[3] Reported by the Committee on Ways and Means, Second session Sixty-fifth Congress, Report No. 369.

[4] Second session Sixty-seventh Congress, Report No. 981.

[5] First session Sixty-seventh Congress, Record, p. 461.

[6] Second session Sixty-seventh Congress, Record, p. 7668.

[7] Second session Forty-sixth Congress, Record, p. 205.

[8] First session Sixtieth Congress, Record, p. 356.

[9] First session Seventy-third Congress, Record, p. 6371.

1798. Subjects relating to mints and assay offices are within the jurisdiction of the Committee on Coinage, Weights, and Measures.

On January 29, 1908,[1] on suggestion of the Speaker,[2] by unanimous consent, the reference of the bill (H. R. 213) to establish an assay office at Salt Lake City, State of Utah, was changed from the Committee on Ways and Means to the Committee on Coinage, Weights, and Measures

The Committee on Coinage, Weights, and Measures reported:

In 1908,[3] the bill (H. R. 14790) to establish an assay office at Gainesville, Hall County, Georgia.

1799. The Committee on Coinage, Weights, and Measures exercises jurisdiction over legislation providing for the establishment of standard packages and grades in interstate commerce.

On February 15, 1912,[4] a change of reference of the bill (H. R. 17946) to establish standard packages and grades of apples, from the Committee on Interstate and Foreign Commerce to the Committee on Coinage, Weights and Measures, proposed by the Speaker,[2] was agreed to by unanimous consent.

On February 3, 1914,[5] on suggestion of the Speaker,[6] by unanimous consent, the Committee on Agriculture was discharged from further consideration of the bill (S. 2269) to fix a standard barrel for fruits, vegetables, and other commodities, and the bill was referred to the Committee on Coinage, Weights, and Measures.

The Committee on Coinage, Weight, and Measures reported:

In 1916,[7] a bill to fix standards for Climax baskets for grapes and other fruits and vegetables, and to fix standards for baskets and containers for small fruits, berries, and vegetables.

In 1920,[8] a bill to fix standards for hampers, round-stave baskets, and split baskets for fruits and vegetables, and to establish a standard box for apples.

1800. The Committee on Coinage, Weights, and Measures has jurisdiction over the establishment of standard weights and measures for cereal mill products, foodstuffs, and commercial feeds.

The Committee on Coinage, Weights, and Measures reported:

In 1926[9] the bill (H. R. 4539) to establish the standard of weights and measures for wheat mill, rye mill, and corn mill products, namely, flours, semolina, hominy, grits and meals, and all commercial feedstuffs.

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[1] First session Sixtieth Congress, Record, p. 1311.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] First session Sixtieth Congress, Record, p. 4261; Report No. 1364.

[4] Second session Sixty-second Congress, Record, p. 2093.

[5] Second session Sixty-third Congress, Record, p. 2854.

[6] Champ Clark, of Missouri, Speaker.

[7] First session Sixty-fourth Congress, Record, p. 11268; Report No. 991.

[8] Second session Sixty-sixth Congress, Record, p. 5880; Report No. 852.

[9] First session Sixty-ninth Congress, Report No. 769.

1801. Authorization for issuance of sourvenior and commemorative coins is reported by the Committee on Coinage, Weights, and Measures.

The Committee on Coinage, Weights, and Measures reported:

In 1920,[1] a bill to authorize the coinage of a 50-cent piece in commemoration of the three hundredth anniversary of the landing of the Pilgrims.

In 1924,[2] a bill to authorize the coinage of 50-cent pieces in commemoration of the commencement on June 18, 1923, of the work of carving on Stone Mountain, in the state of Georgia, a monument tot he valor of the soldiers of the South, and in memory of Warrent G. Harding, President of the United States of America, in whose administration the work was begun.

1802. Legislation relating to the establishment of legal standards of value in insular possession of the United States is considered by the Committee on Coinage, Weights, and Measures.

The Committee on Coinage, Weights, and Measures considered in 1921,[3] the bill (H. R. 3151) to establish United States coinage and currency as the legal standard of value in the Virgin Islands.

1803. Recent history of the Committee on Interstate and Foreign Commerce, section 7 of Rule XI.

Section 7 of Rule XI provides for the reference of subjects relating—

to commerce, life-saving service, and lighthouses, other than appropriations for life-saving service and lighthouse, to the Committee on Interstate and Foreign Commerce.

No change was made in the phraseology of this rule from its adoption in 1892[4] until 1935,[5] when lighthouses and the life-saving service were excluded from its jurisdiction.

The membership of the committee was increased from eighteen to twenty-one in the revision of 1911,[6] and temporarily increased from twenty-one to twenty-three, in 1925, in the adoption of the rules of Sixty-ninth Congress.[7] This increase was made permanent, in 1927,[8] and a further increase was made to twenty-five its present membership, in 1933.[9]

1804. Jurisdiction over legislation providing for regulation of interstate telegraph and telephone facilities and ocean cables has been given to the Committee on Interstate and Foreign Commerce.

The Committee on Interstate and Foreign Commerce reported: In 1912,[10] the bill (H.R. 3010) to fix the requirements governing the receipt, transmission, delivery, and preservation of messages of interstate telegraph and telephone companies.

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[1] Second session Sixty-sixth Congress, Record, p. 4905; Report No. 773.

[2] First session Sixty-eight Congress, Record, p. 3856; Report No. 277.

[3] First session Sixty-seventh Congress, Record, p. 290.

[4] First session Fifty-second Congress, Record, p. 653.

[5] First session Seventy-fourth Congress, Record, p. 2722.

[6] First session Sixty-second Congress, Record, pp. 11, 80.

[7] First session Sixty-ninth Congress, Record, p. 386.

[8] First session Seventieth Congress, Record, p. 11.

[9] First session Seventy-third Congress, Record, p. 6371.

[10] Second session Sixty-second Congress, Record, p. 10118; Report No. 1129.

On July 2, 1918,[1] Mr. William Gordon, of Ohio, from the Committee on Military Affairs, by direction of that committee asked unanimous consent that the joint resolution (H. J. Res. 309) to insure the continuous operation of electrical communicating systems, to guard the secrecy of war dispatches, and communications between public enemies, be taken from the Committee on Interstate and Foreign Commerce and referred to the Committee on Military Affairs.

There being no objection, the request was agreed to.

Subsequently on the same day, Mr. Thetus W. Sims, of Tennessee, from the Committee on Interstate and Foreign Commerce, moved to reconsider the vote by which the bill was transferred to the Committee on Military Affairs, and the yeas and nays being demanded and ordered the vote was yeas 187, nays 107, and the motion to reconsider was agreed to.

The pending question on Mr. Gordon's motion for a reference of the bill being put it was decided in the negative, yeas 61, nays 96, so the bill remained within the jurisdiction of the Committee on Interstate and Foreign Commerce.

The Committee on Interstate and Foreign Commerce reported on the joint resolution (H. J. Res 309), July 4, 1918.[2]

On May 29, 1919,[3] Mr. Martin B. Madden, of Illinois, by direction of the Committee on the Post Office and Post Roads, moved that the joint resolution (H. J. Res. 2) terminating government supervision, possession, control and operation of the telephone and telegraph systems of the United States, be taken from the Committee on Interstate and Foreign Commerce and referred to the Committee on the Post Office and Post Roads.

After extended debate,[4] on a division the yeas were 75 and the nays were 77, and the motion was not agree to.

The Committee on Interstate and Foreign Commerce reported, in 1921,[5] the bill (S. 535) to prevent the unauthorized landing of submarine cables in the United States.

1805. Legislation relating to the financing, valuation, operation, and regulation of common carriers is within the jurisdiction of the Committee on Interstate and Foreign Commerce.

The Committee on Interstate and Foreign Commerce reported: In 1908,[6] a joint resolution authorizing the Interstate Commerce Commission to test appliances intended to promote the safety of railway operation.

In 1912,[7] a bill providing for the physical valuation of the property of carriers and securing information concerning their stocks and bonds and boards of directors.

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[1] Second session Sixty-fifth Congress, Record, p. 8651.

[2] Second session Sixty-fifth Congress, Report No. 741.

[3] First session Sixty-sixth Congress, Record, p. 400.

[4] On August 1, 1919, (First session Sixty-sixth Congress, Record, p. 8971) Mr. C. Williams Ramseyer, of Iowa, inserted in the Record, as an extension of remarks, an exhaustive discussion of this question, including a resume of argument on the right of the Committee on the Post Office and Post Roads to jurisdiction over legislation pertaining to telegraph and telephone systems of communication.

[5] First session Sixty-seventh Congress, Record, p. 1492.

[6] First session Sixtieth Congress, Record, p. 4840; Report No. 1448.

[7] Second session Sixty-second Congress, Record, p. 4113; Report No. 477.

In 1912,[1] a bill regulating charges for transportation of parcels by express companies engaged in interstate commerce.

In 1919,[2] a bill to provide for termination of Federal control of railroads and systems of transportation; and a bill to provide for settlement of disputes between carriers and their employees, etc.

1806. The Committee on Interstate and Foreign Commerce has exercised jurisdiction of legislation relating to canals.

On December 14, 1909,[3] the resolution (H.Res. 162) distributing the message of the President referred to the Committee on Interstate and Foreign Commerce so much of the message as related to the Isthmian Canal.

The Committee on Interstate and Foreign Commerce reported, in 1920,[4] the joint resolution (H. J. Res. 311) authorizing the President of the United States to manage and operate Cape Cod Canal in the State of Massachusetts.

1807. Construction of the Panama Canal and government of the Canal Zone, subjects formerly within the jurisdiction of the Committee on Interstate and Foreign Commerce, are now[5] referred to the Committee on Merchant Marine and Fisheries.

The Committee on Interstate and Foreign Commerce reported:

In 1909,[6] the bill (H. R. 27250) to provide for the government of the Canal Zone and the construction of the Panama Canal.

In 1916,[7] a bill authorizing the President to make rules and regulations affecting health, sanitation, quarantine, taxation, public roads, self-propelled vehicles, and police power on the Canal Zone.

In 1921,[8] a bill relating to the postal service in the Canal Zone.

In 1921,[9] a bill to amend the Penal Code of the Canal Zone and the navigation rules of the Panama Canal.

1808. The investigation of water resources, the creation of a Federal power Commission, the leasing of power sites, and the supervision and development of water power[10] are subjects which have been committed to the Committee on Interstate and Foreign Commerce.

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[1] Second session Sixty-second Congress, Record, p. 4259; Report No. 485.

[2] First session Sixty-sixth Congress, Record, p. 8265; Report No. 456.

[3] Second session Sixty-first Congress, Record, p. 123.

[4] Second session Sixty-sixth Congress, Record, p. 8157.

[5] First session Seventy-fourth Congress, Record, p. 2722.

[6] Second session Sixtieth Congress, Record, p. 1494; Report No. 1972.

[7] First session Sixty-fourth Congress, Record, p. 9192; Report No. 796.

[8] Third session Sixty-sixth Congress, Record, p. 1292; Report No. 1182.

[9] Third session Sixty-sixth Congress, Record, p. 1853; Report No. 1215.

[10] On January 11, 1918, a special committee on water power (Second session Sixty-fifth Congress, Record, p. 833) consisting of eighteen members was created, to which was transferred jurisdiction of all bills pertaining to the development or utilization of water power formerly excised by the Committee on Interstate and Foreign Commerce. This committee was continued in the Sixty-sixth Congress by resolution adopted May 22 (First session Sixty-sixth Congress, Record, p. 108), 1919, but having served the purpose for which it was created expired with that Congress, its jurisdiction returning to the Committee on Interstate and Foreign Commerce which had surrendered it on the creation of the special committee.

On June 9, 1917,[1] Mr. William C. Adamson, of Georgia, from the Committee on Interstate and Foreign Commerce, by direction of that committee, moved that the reference of the bill (H. R. 4504) relating to the development of water power on navigable streams be changed from the Committee on Rivers and Harbors to the Committee on Interstate and Foreign Commerce.

After debate, the question being put, and the yeas and nays being demanded and ordered, it was decided in the affirmative, yeas 222, nays 47. So the bill was referred to the Committee on Interstate and Foreign Commerce.

On June 26, 1917,[2] the House was in the Committee of the Whole House on the State of the Union for the consideration of the river and harbor appropriation bill, when the Clerk read the following paragraph:

That the Secretary of War is hereby authorized and empowered to grant leases or licenses to municipal corporations and to public service or other corporations for the use of the surplus water not needed for purposes of navigation at the United States Government dams constructed at Lake Winnibigoshish and at Lake Pokegama, in the State of Minnesota, at such rates and compensation as he may deem just and reasonable, giving to municipal corporations the preference.

Mr. Henry Allen Cooper, of Wisconsin, made the point of order that the paragraph proposed legislation not within the jurisdiction of the Committee on Rivers and Harbors and was therefore not in order.

The Chairman [3] ruled:

The point of order is sustained. It is sustained upon the theory that other committees in the House have jurisdiction of certain questions embodied in this section.

This is a question where the rulings of the Chair have been that the matter should to the Committee on Interstate and Foreign Commerce. This is a privileged bill, and questions that are not within the jurisdiction of the Committee on Rivers and Harbors can not be reported in a privileged bill.

The Committee on Interstate and Foreign Commerce reported:

In 1912,[4] a bill for the investigation of water resources.

In 1921,[5] a bill amending an act creating a Federal power commission, providing for the development of water power and the use of public lands in relation thereto.

1809. The Committee on Interstate and Foreign Commerce's former jurisdiction over legislation relating to the navigation, commerce, shipping facilities, and pollution of the Great Lakes, and the survey and improvement of navigation therefrom to the sea via the St. Lawrence river has been transferred [6] to the Committee on Merchant Marine and Fisheries.

Motions for the rereference of messages and public bills are in order immediately after the reading of the journal.

On January 20, 1922,[7] following the reading and approval of the Journal, the Speaker [8] announced:

A few days ago, when the President transmitted the report of the International Joint Commission relative to the improvement of the St. Lawrence River and navigation from the Great

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[1] First session Sixty-fifth Congress, Record, p. 3403.

[2] First session Sixty-first Congress, Record, p. 4321.

[3] Pat Harrison, of Mississippi, Chairman.

[4] Second session Sixty-second Congress, Record, p. 2032; Report No. 319.

[5] Third session Sixty-sixth Congress, Record, p. 2685; Report p. 2685; Report No. 1299.

[6] First session Seventy-fourth Congress, Record, p. 9799.

[7] Second session Sixty-seventh Congress, Record, p. 1457.

[8] Frederick H. Gillett, of Massachusetts, Speaker.

Lakes to the sea, the Chair asked leave to withhold reference because it had been notified by some Members of the House that they desired to be heard upon it.

The Committee on Foreign Affairs, the Committee on Interstate and Foreign Commerce, and the Committee on Rivers and Harbors each claimed that the report, and any bills that follow it, should be referred to their respective committee. The Chair has an informal hearing, in which members of each committee appeared, and very ably, and greatly to the assistance of the Chair, argued the question, and also filed briefs giving the precedents. The Chair has given consideration to it, and admits that the question is delicate and not easy to decide, because there are precedents for each of the committees.

The Committee on Foreign Affairs argues, and justly, that it involves a treaty, involves an international commission, and that those question belong to the committee. The Committee on Interstate and Foreign Commerce argues, and justly, that it involves a canal, involves the creation and transmission of power, which subjects belong to them. The Committee on Rivers and Harbors argues, and justly, that it involves an improvement of the navigation of the St. Lawrence River and of the harbors upon the Lakes, and in consequences belongs to the committee. And each committee has abundant authority and precedent for its claim. Inasmuch as each committee can show precedents and reasons which, if they stood along, would compel the reference of the subject to that committee, the Chair has endeavored to determine what was the main, underlying, dominant motive and feature of the project and be governed by that in the reference.

The Chair has concluded, after careful consideration, that the weight of argument and of precedents is in favor of the Committee on Interstate and Foreign Commerce, because, it seems to the Chair, a main and dominant feature of the subject is the great Welland Canal, as that of itself would come under a jurisdiction of the Interstate and Foreign Commerce Committee. To be sure, it is in Canadian territory, and will be built by the Canadians, but proportional compensation for it must be arranged, directly or indirectly, by the United States. The creation and transmission of power is also one of the great dominant features, and that, too, belongs to the same committee. It seems to the Chair that those two features are so important and predominant as to give the strongest claim to that committee. While, of course, the whole purpose of the project is commerce, the House can at any time determine by vote what committee is shall go on. The Chair has taken this unusual action of stating, briefly, the ground of his reference, because of the unusual interest and the elaborate argument that was made by the different committees. The Chair refers it to the committee on Interstate and Foreign Commerce.

Whereupon Mr. S. Wallace Dempsey, of New York, inquired when a motion for a change in the reference would be in order.

The Speaker said:

Any morning after the reading of the Journal. The Chair thinks it ought to be done with the mutual knowledge of the committees, of course.

The Chair would be perfectly willing to have it to-morrow morning, or any morning on which the representatives of the different committees might agree.

Mr. Finis J. Garrett, of Tennessee, further inquired if the rule providing for reference applied to messages as well as to bills.

The Speaker replied:

The rule says all bills, resolutions, and documents come under the rule.

The Chair would refer any bill or resolution on the same object to the same committee, subject to whatever the House might decide.

On January 24,[1] Mr. Dempsey moved the portion of the report of the International Joint Commission referring to the scheme of improvement on the St. Lawrence River between Montreal and Lake Ontario be rereferred from the

[1] Second session Sixty-seventh Congress, Record, p. 1650.

Committe on Interstate and Foreign Commerce to the Committee on Rivers and Harbors.

The question being taken, the motion was rejected.

The Committee on Interstate and Foreign Commerce reported:

In 1924,[1] the joint resolution (H. J. Res. 332) authorizing a survey of the St. Lawrence River, and the preparation of plans and estimates as recommended by the International Joint Commission.

In 1910,[2] a bill to prevent the dumping of refuse in Lake Michigan.

In 1910,[3] a joint resolution authorizing the construction and maintenance of wharves, piers, and other structures on Lake Michigan.

1810. Legislation relating to dikes, dams, levess, and telephone and telegraph wires across navigable streams, and to change of name, navigability or diversion of water from such streams, belongs to the jurisdiction of the Committee on Interstate and Foreign Commerce.

On June 26, 1917,[4] during the consideration of the river and harbor appropriation bill in the Committee of the Whole House on the state of the Union, the Clerk read as follows:

That Bayou Meto, in the State of Arkansas, be, and the same is hereby, declared to be a nonnavigable stream, within the meaning of the Constitution and laws of the United States.

Mr. William C. Adamson, of Georgia, made the point of order that the jurisdiction of bills declaring streams nonnavigable rested with the Commission on Interstate and Foreign Commerce and not with the Committee on Rivers and Harbors.

The Chairman[5] said:

The Chair is not concerned in what has been passed before by the Committee on Interstate and Foreign Commerce or the Committee on Rivers and Harbors. Clearly bills declaring rivers nonnavigable belong to the Committee on Interstate and Foreign Commerce.

Jurisdiction has always been placed in the Committee on Interstate and Foreign Commerce to declare streams nonnavigable.

Mr. Hinds' syllabus puts in heavy type at the head:

"Bills declaring as to whether or not streams are navigable or preventing hindrances to navigation are reported by the Committee on Interstate and Foreign Commerce."

This is what Mr. Hinds thought when he put this in his Precedents, that the Committee on Interstate and Foreign Commerce did have jurisdiction. The action of the House enforced that proposition, and the rules of the House gave the committee jurisdiction over the question relating to commerce, life-saving stations, and so forth. This is a question that declares a stream nonnavigable and affects commerce, and the Chair thinks it is properly within the jurisdiction of the Committee on Interstate and Foreign Commerce.

Mr. Samuel M. Taylor, of Arkansas, having appealed from the decision of the Chair, the Committee sustained the Chair by a vote of yeas 58, noes 1.

The Committee on Interstate and Foreign Commerce reported:

In 1910,[6] a bill to authorize the Tri-State Telephone and Telegraph Company to construct a lead of wires across the Mississippi River from Morgans Point, Arkansas, to Richardson, Tennessee, to be used for telephone and telegraph purposes.

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[1] Second session Sixty-eighth Congress, Report No 1495.

[2] Second session Sixty-first Congress, Record, p. 5432; Report No. 1120.

[3] Second session Sixty-first Congress, Record, p. 5913; Report No. 1274.

[4] First session Sixty-fifth Congress, Record, p. 4324.

[5] Pat Harrison, of Mississippi, chairman.

[6] Second session Sixty-first Congress, Record, p. 5476; Report No. 1145.

In 1912,[1] a bill for the construction and maintenance by the city of St. Louis of an intake tower in the Mississippi River.

In 1921,[2] a bill granting consent of Congress to the construction of a dike across a navigable stream in the State of Oregon.

In 1921,[3] a joint resolution to change the name of the Grand River in Colorado and Utah to the Colorado River.

On February 3, 1912,[4] upon suggestion of the Speaker,[5] by unanimous consent the Committee on Rivers and Harbors was discharged from the further consideration of the bill (H. R. 19343) to authorize a levee and drainage district to construct and maintain a levee across a branch of the St. Francis River in Missouri, and the bill was referred to the Committee on Interstate and Foreign Commerce.

1811. Legislation relating to the construction of bridges over boundary streams between the United States and foreign countries have been reported by the Committee on Interstate and Foreign Commerce.

The Committee on Interstate and Foreign Commerce reported, in 1919,[6] the bill (S. 3427) to establish a commission to report to Congress on the practicability, feasibility, and place, and to devise plans for the construction of a public bridge over Niagara River from some point in the city of Buffalo, New York, to some point in the Dominion of Canada.

1812. The construction of a memorial bridge[7] across a navigable stream is a subject within the jurisdiction of the Committee on Interstate and Foreign Commerce and not the Committee on the Library.

On February 3, 1913,[8] upon the initiative of the Speaker, by unanimous consent, the Committee on the Library was discharged from further consideration of the bill (H. R. 28575) for a commission to secure plans for a memorial Grant-Lee bridge across the Potomac opposite the Lincoln Memorial, and the bill was referred to the Committee on Interstate and Foreign Commerce.

1813. A bill granting easements across Government land and under a Government canal was reported by the Committee on Interstate and Foreign Commerce.

The Committee on Interstate and Foreign Commerce reported, in 1919,[9] the bill (H. R. 10402) authorizing the Secretary of War to grant permission to a municipality to construct, maintain, and operate sewers on certain Government property and under the United States canal at Little Chanute. Wisconsin.

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[1] Second session Sixty-second Congress, Record, p. 6472; Report No. 702.

[2] Third session Sixty-sixth Congress, Record, p. 916; Report No. 1158.

[3] Third session Sixty-sixth Congress, Record, 3722; Report No. 1354.

[4] Second session Sixty-second Congress, Record, p. 1706.

[5] Champ Clark, of Missouri, Speaker.

[6] Second session Sixty-sixth Congress, Record, p. 497; Report No. 492.

[7] See section 1968 of this volume.

[8] Third session Sixty-second Congress, Record, p. 2524.

[9] Second session Sixty-sixth Congress, Record, p. 352; Report No. 482.

1814. Bills establishing a bureau of lighthouses, authorizing sale of lighthouse reservations, and providing for aids to navigation in the Lighthouse Service, formerly within the jurisdiction of the Committee on Interstate and Foreign Commerce, are now[4] reported by the Committee on Merchant Marine and Fisheries.

The Committee on Interstate and Foreign Commerce reported:

In 1910,[1] a bill providing for a bureau of lighthouses in the Department of Commerce and Labor.

In 1917,[2] a bill to authorize aids to navigation and other works in the Light House Service.

In 1920,[3] a bill to authorize the sale of a portion of the Copper Harbor Range Lighthouse Reservation to Houghton and Keweenaw Counties, Michigan.

1815. Bills authorizing the establishment of Coast Guard stations and regulating pay of enlisted men in the Coast Guard Service, formerly reported by the Committee on Interstate and Foreign Commerce, are now[4] handled by the Committee on Merchant Marine and Fisheries.

The Committee on Interstate and Foreign Commerce reported:

In 1920,[5] a bill to authorize the establishment of a Coast Guard station on the coast of Lake Superior in Cook County, Minnesota.

In 1921,[6] a bill to regulate the retired pay of certain enlisted men in the Coast Guard.

1816. Bills relating to quarantine and the duties of the Marine Hospital Service and otherwise providing for the Public Health Service, formerly reported by the Committee on Interstate and Foreign Commerce, are now[4] considered by the Committee on Merchant Marine and Fisheries.

The Committee on Interstate and Foreign Commerce reported, in 1920,[7] the bill (H. R. 11841) granting additional quarantine powers and imposing additional duties upon the Marine Hospital Service.

1817. Bills relative to adjustment of claims occasioned by activities of the Coast and Geodetic Survey, formerly considered by the Committee on Interstate and Foreign Commerce, are now[4] reported by the Committee on Merchant Marine and Fisheries.

The Committee on Interstate and Foreign Commerce reported, in 1920,[8] the bill (S. 3270) authorizing the Superintendent of the Coast and Geodetic Survey, subject to the approval of the Secretary of Commerce, to consider, ascertain, adjust, and determine claims for damages occasioned by acts for which said survey is responsible in certain cases.

1818. Bills relating to personnel of the Revenue-Cutter Service have been given to the Committee on Interstate and Foreign Commerce.

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[1] Second session Sixty-first Congress, Record, p. 772; Report No. 224.

[2] Second session Sixty-fourth Congress, Record, p. 1156; Report No. 1272.

[3] Second session Sixty-sixth Congress, Record, p. 8303; Report No. 1086.

[4] Second session Sixty-sixth Congress, Record, p. 5683; Report No. 826.

[5] Second session Sixty-sixth Congress, Record, p. 2478; Report No. 1286.

[6] Second session Sixty-sixth Congress, Record, p. 6792; Report No. 945.

[7] Second session Sixty-sixth Congress, Record, p. 6386; Report No. 907.

[8] Second session Sixty-third Congress, Record, p. 1357.

It is not in order to discharge a committee from consideration of a bill and return the bill to the Speaker's table.

On January 11, 1915,[1] following the approval of the Journal, Mr. Daniel R. Anthony, jr., of Kansas, asked unanimous consent to discharge the Committee on Naval Affairs from further consideration of the bill (S. 6011) to reinstate Frederick J. Birkett as third lieutenant in the United States Cutter Service.

Mr. James R. Mann, of Illinois, submitted that a bill could not be so returned to the Speaker's table and that the request was not in order.

The Speaker[2] sustained the point of order.

Whereupon Mr. Anthony asked that the Committee on Naval Affairs be discharged from further consideration of the bill and that the bill be referred to the Committee on Interstate and Foreign Commerce.

There being no objection, the motion was agreed to, and the bill was referred to the Committee on Interstate and Foreign Commerce.

1819. Registration and supervision of motor vehicles engaged in interstate commerce and the licensing of operators thereof are subjects within the jurisdiction of the Committee on Interstate and Foreign Commerce.

The Committee on Interstate and Foreign Commerce reported, in 1911,[3] the bill (H. R. 32570) providing for the regulation, identification, and registration of automobiles engaged in interstate commerce and the licensing of operators thereof.

1820. Bills relating to the importation of narcotics,[4] of adulterated or misbranded seeds,[5] and of women for immoral purposes have been reported, but not exclusively, by the Committee on Interstate and Foreign Commerce.

The Committee on Interstate and Foreign Commerce reported:

In 1909,[6] a bill to prohibit the importation and use of opium for other than medicinal purposes.

In 1908,[7] a bill to regulate commerce in adulterated and misbranded seed and to prevent their sale or transportation.

In 1912,[8] and 1926,[9] bills to regulate foreign commerce by prohibiting admission into the United States of certain adulterated seeds and seeds unfit for seeding purposes.

In 1905,[10] the bill (H. R. 12315) to regulate and prevent the transportation in interstate and foreign commerce of alien women and girls for immoral purposes.

1821. The Committee on Interstate and Foreign Commerce reported a bill creating an Interstate Trade Commission.

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[1] First session Seventy-fourth Congress, Record, p. 2722.

[2] Champ Clark, of Missouri, Speaker.

[3] Third session Sixty-first Congress, Record, p. 3747; Report No. 2270.

[4] See section 8770 of this volume.

[5] See section 1873 of this volume.

[6] Second session Sixtieth Congress, Report No. 1878.

[7] First session Sixtieth Congress, Report No. 1878.

[8] Second session Sixty-second Congress, Report No. 499.

[9] First session Sixty-ninth Congress, Report No. 770.

[10] Second session Sixty-first Congress, Report No. 47.

The Committee on Interstate and Foreign Commerce reported, in 1914,[1] the bill (H. R. 15613) to create an Interstate Trade Commission, and to define its powers and duties.

1822. Bills relating to commercial and national aviation have been considered by the Committee on Interstate and Foreign Commerce.

On April 19, 1921,[2] a message from the President transmitting the report of the National Advisory Committee for Aeronautics, dealing with Federal regulation of air navigation, air routes to cover the whole United States, and cooperation among the various departments of the Government concerned with aviation, was referred by the Speaker[3] to the Committee on Interstate and Foreign Commerce.

The Committee on Interstate and Foreign Commerce considered in 1921,[4] and 1925,[5] bills to create a bureau of civil aviation in the Department of Commerce, and to encourage and regulate the operation of civil aircraft in interstate and foreign commerce.

1823. Bills regulating commerce with public enemies have been reported by the Committee on Interstate and Foreign Commerce.

The Committee on Interstate and Foreign Commerce reported, in 1917,[6] 1920,[7] and 1921,[8] bills defining, regulating, and punish trading with the enemy.

1824. Subjects relating to hygiene and demography come within the jurisdiction of the Committee on Interstate and Foreign Commerce.

The Committee on Interstate and Foreign Commerce reported, in 1910,[9] the joint resolution (H.J. Res 107) authorizing the President to extend an invitation to the States in connection with the Fifteenth International Congress on Hygiene and Demography.

1825. Bills relating to the establishment of harbor lines have been reported by the Committee on Interstate and Foreign Commerce.

The Commerce on Interstate and Foreign Commerce reported, in 1908,[10] the resolution (S. Res. 58) authorizing the Secretary of War to establish harbor lines in Wilmington Harbor, California.

1826. A bill creating a commission to assist in the purchase, sale, and distribution of newsprint paper was considered by the Committee on Interstate and Foreign Commerce.

The Committee on Interstate and Foreign Commerce considered, in 1920,[11] the bill (H.R. 13928) creating a commission to assist in the purchase, sale, and distribu-

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[1] Second session Sixty-third Congress, Record, p. 6714; Report No. 533.

[2] First session Sixty-seventh Congress, Record, p. 458.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] Second session Sixty-seventh Congress, Record, p. 183.

[5] Second session Sixty-eighth Congress, Record, p. 1944.

[6] First session Sixty-fifth Congress, Report No. 85.

[7] Second session Sixty-sixth Congress, Report No. 1089.

[8] Third session Sixty-sixth Congress, Report No. 1329.

[9] Second session Sixty-first Congress, Record, p. 531; Report No. 126.

[10] First session Sixtieth Congress, Record, p. 3501; Report No. 1261

[11] Second session Sixty-sixth Congress, Record, p. 6555.

tion of newsprint paper in order to insure a supply to newspaper of limited circulation.

1827. Legislation providing for the protection of maternity and infancy belongs within the jurisdiction of the Committee on Interstate and Foreign Commerce.

The Committee on Interstate and Foreign Commerce reported, in 1921,[1] the bill (S. 3259) for the public protection of maternity and infancy and providing a method of cooperation between the Government of the United States and the several states.

1828. Establishment of zones for standard time and provisions for daylight saving are subjects within the jurisdiction of the Committee on Interstate and Foreign Commerce.

The Committee on Interstate and Foreign Commerce reported:

In 1921,[2] the bill to transfer the Panhandle and Plains section of Texas and Oklahoma to the United States standard central time zone.

In 1918,[3] and 1919,[4] bills to save daylight and to provide standard time for the United States.

1829. The Committee on Interstate and Foreign Commerce has considered bills providing for a topographical survey of the United States.

In 1922,[5] the Committee on Interstate and Foreign Commerce considered a bill providing for completion of the topographical survey of the United States; and in 1924 [6] reported a similar bill.

1830. Standards of quality and regulations for the control of interstate distribution of coal and other fuels and the procuring and publication of statistics relative thereto, are subjects within the jurisdiction of the Committee on Interstate and Foreign Commerce.

The Committee on Interstate and Foreign Commerce reported:

In 1922,[7] a bill to establish a commission to be known as the United States Coal Commission for the purpose of securing information in connection with questions relative to interstate commerce in coal.

Also,[8] a bill declaring a national emergency to exist in the production, transportation, and distribution of coal and other fuel, granting additional powers to the Interstate Commerce Commission, providing for the appointment of a Federal fuel distributor, providing for the declaration of car-service priorities in interstate commerce during emergencies and to prevent extortion in the sale of fuel.

Also,[9] a bill relating to the placing of an embargo on the exportation of coal in times of emergency.

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[1] Third session Sixty-sixth Congress, Record, p. 2179; Report No. 1255.

[2] Third session Sixty-sixth Congress, Report No. 1289.

[3] Second session Sixty-fifth Congress, Report No. 293.

[4] First session Sixty-sixth Congress, Report No. 42.

[5] Second session Sixty-seventh Congress, Record, p. 1552.

[6] First session Sixty-eighth Congress, Report No. 1011.

[7] Second session Sixty-seventh Congress, Report No. 1181.

[8] Report No. 1196.

[9] Report No. 557.

1831. The Committee on Interstate and Foreign Commerce exercises jurisdiction over bills authorizing the construction of dams across navigable streams.

On May 1, 1930,[1] on motion of Mr. Edward E. Denison, of Illinois, by unanimous consent, the bill (S. 3898) granting the consent of Congress of the Mill Four drainage district, in Lincoln County, Oreg., to construct, maintain, and operate dams and dikes to prevent the flow of waters of Yaquina Bay and River into Nutes Slough and sloughs connected therewith, was transferred from the Committee on Irrigation and referred to the Committee on Interstate and Foreign Commerce.

1832. Recent history of the Committee on Rivers and Harbors, section 8 or Rule XI.

Section 8 of Rule XI provides for the reference of subjects relating—

to the improvement of rivers and harbors to the the Committee on Rivers and Harbors.

This committee is composed of twenty-five members. The membership of the committee was increased from eighteen to twenty in 1907[2] by the adoption of Order No. 1 offered by Mr. John Dalzell, of Pennsylvania, to twenty-one in the revision of 1911,[3] and to its present membership of twenty-five in 1933.[4]

This rule remained unchanged from its adoption in 1993[5] when the Committee on Rivers and Harbors was first authorized as a standing committee until the revision of 1920[6] when its authority to report bills "making appropriations for rivers and harbors" was modified to provide for reports on bills "authorizing the improvement of rivers and harbors."

The committee inherited from the Committee on Commerce, from which it was an offshoot,[7] the privilege of reporting the river and harbor bill. This bill was not then one of the general appropriation bills subject to the restriction of clause 2 Rule XXI, but beginning with the Sixty-sixth Congress[8] it has been reported as privileged from the Committee on Appropriations and is now held subject to the provisions of that clause.

The jurisdiction of the committee was further increased in 1911 by the addition of the functions of the Committee on Levees and Improvements of the Mississippi River which was abolished in the revision of that year,[9] and somewhat circumscribed in 1916 by the loss of subjects relating to flood control when the Committee on Flood Control[10] was created.

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[1] Second session Seventy-first Congress, Record, p. 8169.
[2] First session of Sixtieth Congress, Record, p. 356.
[3] First session Sixty-second Congress, Record, pp. 11, 80.
[4] First session Seventh-third Congress, Record, p. 6371.
[5] First session Forty-eighth Congress, Record, pp. 196, 214.
[6] Second session Sixty-sixth Congress, Record, p. 8108.
[7] See section 4096 of Hinds' Precedents.
[8] Third session Sixty-sixth Congress, Record, pp. 2156, 2348, 2351.
[9] First session Sixty-second Congress, Record, pp. 12,80.
[10] See section 2069 of this volume.

1833. The investigation of watersheds of streams under improvement and the survey and investigation of dams on such streams are subjects within the jurisdiction of the Committee on Rivers and Harbors.

On February 15, 1910,[1] during the consideration of the river and harbor bill (H. R. 20686) in the Committee of the Whole House on the state of the Union this paragraph was reached:

The surveys of navigable streams herein or hereafter authorized shall include such streamflow measurements and other investigations of the watersheds as may be necessary for preparation of plans of improvement and a proper consideration of all uses of the stream affecting navigation, and whenever necessary similar investigations may be made in connection with all navigable streams under improvement. Whenever permission for the construction of dams in navigable streams is granted, or is under consideration by Congress, such surveys and investigations of the sections of the streams affected may be made as are necessary to secure conformity with rational plans for the improvement of the streams for navigation.

Mr. James R. Mann, of Illinois, made the point of order that these items were not within the jurisdiction of the Committee on Rivers and Harbors.

Following the debate, the Chairman[2] overruled the point of order and said:

The gentleman from Illinois, Mr. Mann, makes the point of order on the paragraph on page 86, which provides for two things. First, in the case of an authorized survey, such surveys and investigation as may be necessary for preparation of plans of improvement of the streams in question and, second, for a similar investigation where there is either authorized or is likely to be authorized a dam on the streams in question. Very clearly, to the mind of the Chair, the first part of this paragraph is within the jurisdiction of the Committee on Rivers and Harbors, because it provides for such investigations as will enable the improvement of rivers and harbors; and it seems to the Chair that the second part of the paragraph is also within the jurisdiction of the committee for the reason that a certain method of improvement might be proper in case of a river that is not obstructed by a dam or does not contain a dam or other structure, while a different sort of treatment may be required where there is a dam in such river. It is equally the province of the Committee on Rivers and Harbors in both cases to provide for such investigation as will enable the improvement of the river to be made consistent with conditions as they may be found to exist. The Chair thinks, therefore, that both part of the paragraph are in order, and overrules the point of order.

1834. The construction of locks on navigable streams is a subject within the jurisdiction of the Committee on Rivers and Harbors rather than that of the Committee on Interstate and Foreign Commerce.

On January 5, 1912,[3] on motion of Mr. Caleb Powers, of Kentucky, by unanimous consent, the Committee on Interstate and Foreign Commerce was discharged from the further consideration of the bill (H.R. 16687) relating to the construction of Lock No. 20 on the Cumberland River, and the bill was referred to the Committee on Rivers and Harbors.

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[1] Second session Sixty-first Congress, Record, p. 1938.

[2] John Dalzell, of Pennsylvania, Chairman.

[3] Second session Sixty-second Congress, Record, p. 682.

1835. The construction and maintenance, but not the rental, of equipment necessary for river improvement are subjects within the jurisdiction of the Committee on Rivers and Harbors.

On January 25, 1913,[1] the river and harbor bill (H.R. 28180) was under consideration in the Committee of the Whole House on the state of the Union, when the following was read:

Provided, That of the money hereby appropriated so much as may be necessary shall be expended in the construction of suitable and necessary dredge boats and other devices and appliances and in the maintenance and operation of the same.

Mr. J. Hampton Moore, of Pennsylvania, raised a point of order against the paragraph.

After debate, the Chairman[2] said:

The gentleman from Pennsylvania makes the point of order against the whole paragraph, which provides for the improvement of the Mississippi River from Head of Passes to the mouth of the Ohio River, and so forth, and for continuing improvement with a view to securing a permanent channel depth of 9 feet, $6,000,000, which sum shall be expended under the direction of the Secretary of War in accordance with the plans, specifications, and so forth.

That, of course, raises the jurisdiction of the committee. The question then left, and the only question for decision is, is the subject matter of the paragraph within the jurisdiction of the Committee on Rivers and Harbors? The Chairs thinks it is, and the point of order is overruled.

1836. On September 11, 1919,[3] on motion of Mr. Willis C. Hawley, of Oregon, by unanimous consent, the Committee on Appropriations was discharged from the further consideration of the bill (H.R. 447) relating to the construction of a dredge to be used in river improvement, and the bill was referred to the Committee on Rivers and Harbors.

1837. On June 26, 1917,[4] during consideration of the river and harbor bill (H.R. 4285) in the Committee of the Whole House on the state of the Union, the following paragraph was read:

That amounts hereafter paid by private parties or other agencies for rental of plant owned by the Government in connection with the prosecution of river and harbor works shall be deposited in each case to the credit of the appropriation to which the plant belongs.

Mr. William H. Stafford, of Wisconsin, made the point of order that the matter was not within the jurisdiction of the committee reporting the bill.

The Chairman[5] sustained the point of order.

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[1] Third session Sixty-second Congress, Record, p. 2051.

[2] Mr. John A. Moon, of Tennessee, Chairman.

[3] First session Sixty-sixth Congress, Record, p. 5267.

[4] First session Sixty-fifth Congress, Record, p. 4327.

[5] Pat Harrison, of Mississippi, Chairman.

1838. The Committee on Rivers and Harbors and not the Committee on Flood Control was deemed to have jurisdiction over proposed legislation relating to the erosion of banks along navigable streams.

On June 26, 1917,[1] while the river and harbor bill (H. R. 4285) was being considered in the Committee of the Whole House on the state of the Union, Mr. Carl Vinson, of Georgia, offered the following amendment:

Savannah River at and near Augusta, Ga.: For the purpose of determining what erosion is taking place and what improvements are necessary to prevent the same in the interest of navigation, and also the consideration of any proposition for cooperation on the part of the local or State interests.

Thereupon Mr. William H. Stafford, of Wisconsin, made the point of order that the erosion of the banks of navigable streams was a subject under the jurisdiction of the Committee on Flood Control and not the Committee on Rivers and Harbors.

The Chairman[2] held that an investigation touching erosion affecting navigation was within the jurisdiction of the Committee on Rivers and Harbors, and overruled the point of order.

1839. The pollution of navigable waters is a subject within the jurisdiction of the Committee on Rivers and Harbors.

On April 16, 1918,[3] the bill (H. R. 10069), the river and harbor bill, was under consideration in the Committee of the Whole House on the state of the Union when the following section was reached:

That the Secretary of War shall cause an investigation to be made regarding the discharge or deposit into any of the navigable waters of the United States, or into any tributaries of same, of free acid or acid waste in any form, and the extent of same, together with any injurious results affecting the navigability of such waters, or any works of improvement made thereon by the United Stats or upon any vessels navigating the same, and submit a report, with any recommendation it may deem appropriate, and any necessary expenses connected therewith shall be paid out of the available funds herein or heretofore appropriated for examinations, surveys, and contingencies.

Mr. Joseph Walsh, of Massachusetts, raised the point of order against the section that it related to a subject within the jurisdiction of the Committee on Interstate and Foreign Commerce rather than that of the Committee on Rivers and Harbors.

After debate the Chairman[4] said:

The gentleman from Massachusetts make a point of order against section 5 of the bill, which, in substance, makes it unlawful to discharge any free acid or acid waste in any form, either directly or indirectly, into any navigable water of the United States. The chairman of the Committee on Rivers and Harbors has made the statement from the floor that the discharge of free acid or acid waste into navigable waters does interfere with the improvement of such rivers. The attention of the Chair has also been called to a report or memorandum of the Chief of Engineers, in which the statement is made that "the presence of acid and acid salts in the water results in deteriora-

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[1] First session Sixty-fifth Congress, Record, p. 4317.

[2] Pat Harrison, of Mississippi, Chairman.

[3] Second session Sixty-fifth Congress, Record, p. 5176.

[4] Mr. Joseph W. Byrns, of Tennessee, Chairman.

tion of the boilers and hulls of steamboats and damage to the submerged metal parts of the Government locks and dams." He further states that "the damage done to the Government locks and dams is extensive." While the Chair is not altogether clear upon the subject, the Chair is inclined to think that this section is in order as bearing upon the improvement of navigable streams, because it is perfectly manifest that if the discharge of free acid and acid waste into navigable streams has the effect of destroying the locks and dams which are placed in the streams for the purpose of improving and making them navigable, then its presence is a very serious detriment and hindrance to the government work of improvement on such streams, and the River and Harbor Committee, in the opinion of the Chair, would have jurisdiction to report legislation having for its object the elimination or prevention of such injury. Under such circumstances it seems to the Chair that the committee is as much authorized to report legislation removing the acid or acid waste from navigable streams, constituting, as it has been stated, an obstruction to navigation, as it is to report legislation removing snags or similar obstructions from a navigable river, a right which the Chair understands has not been denied. The Chair overrules the point of order.

The Committee on Rivers and Harbors reported, in 1923,[1] the bill (S. 3968) to improve the navigability of waters of the United States by preventing oil pollution thereof.

1840. Bills relating to intrastate inland waterways have been held to fall within the jurisdiction of the Committee on Rivers and Harbors rather than that of the Committee on Interstate and Foreign Commerce.

On January 28, 1926,[2] during an interval in the business of the House, the Speaker[3] made the following statement:

The Chair desires to make a statement touching the reference on a bill. It is a bill of some considerable importance and deals with the Cape Cod Canal. This legislation has been before Congress for a good many years in one form and another, but the reference of the bill has not been uniform. I think it would be well for the House to know, briefly, the history of this legislation so far as its reference to committees in concerned. In the first session of the Sixty-fifth Congress, which was during the war, the investigation as to the advisability of the purchase of the Cape Cod Canal was referred to the Committee on Rivers and Harbors and was reported by that committee. Subsequently, letters from the Secretary of War as to the advisability of the purchase pursuant to the act passed in the first session of the Sixty-fifth Congress (40 U. S. Stat L. 262) were referred to the Committee on Rivers and Harbors. Later, in the third session of the Sixty-fifth Congress, a bill providing for the operation of the canal passed the Senate and was referred to the Committee on Interstate and Foreign Commerce. In the Sixty-sixth Congress, first session, a letter from the Secretary of War transmitting a tentative draft of legislation relating to the canal was referred to the committee on Rivers and Harbors. In the second session of the Sixty-sixth Congress, House Joint Resolutions 308 and 311, authorizing the operation of the Cape Cod Canal, were referred to the Committee on Interstate and Foreign Commerce. In the second session of the Sixty-seventh Congress, a bill relating to the acquisition of the Cape Cod Canal was referred to the Committee on Interstate and Foreign Commerce, and in the last Congress a bill was reported from the Committee on Interstate and Foreign Commerce and passed by the House. Thus it will be noted the reference of this legislation has not been uniform.

The Chair is inclined to think that the proper reference of such legislation is to the Committee on Rivers and Harbors. The Cape Cod Canal is peculiarly an inland waterway; it lies entirely within one State and is not connected in any way with either interstate or foreign commerce.

When this bill was introduced a few days ago, it was marked for reference to the Committee on Rivers and Harbors, but the Chair withheld that reference in order to examine into the situation more thoroughly and to confer with a number of gentlemen whose opinion he values on

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[1] Fourth session Sixty-seventh Congress, Reports No. 1569, No. 1693.

[2] First session Sixty-ninth Congress Record, p. 2934.

[3] Mr. Nicholas Longworth, of Ohio, Speaker.

such matters. The Chair will state that if this bill were introduced for the first time he would unhesitatingly refer it to the Committee on Rivers and Harbors. However, in view of the fact that this bill, in this exact or substantially exact form, as the Chair understands, has been twice referred to and reported by the Committee on Interstate and Foreign Commerce, the Chair felt he ought to make some investigation. Since that time the Chair has conferred with the chairman of the Committee on Interstate and Foreign Commerce, with the ranking minority member, the gentleman from Kentucky Mr. Barkley, and with the gentleman from Texas Mr. Rayburn as to whether it would be proper, under the circumstances, to refer this bill to the Committee on Rivers and Harbors, which committee asks for jurisdiction of it.

The Chair is able to state that all of these gentlemen agree that the proper original reference should have been to the Committee on Rivers and Harbors, and to that they would have no objection now. On the contrary, they would be pleased, because of the tremendous amount of work that is before the Committee on Interstate and Foreign Commerce, not to have jurisdiction of the bill.

Under the circumstance, therefore, in view of what the Chair thinks would have been the proper original reference, and of the fact that the Rivers and Harbors Committee asks for jurisdiction of this bill, and, further, in view of the fact that the chairman and leading members on both sides of the Committee on Interstate and Foreign Commerce are entirely willing to waive jurisdiction, the Chair thinks the reference to the Committee on Rivers and Harbors is proper, and it is so referred.

1841. On February 15, 1910,[1] while the bill H. R. 20686, the river and harbor bill, was under consideration in the Committee of the Whole House on the state of the Union, the following paragraph was read:

Apalachicola Bay and St. George Sound, with a view to determining the best location for a deep-water harbor with entrance channel from the Gulf of Mexico by way of East Pass, West Pass, West Pass, New Inlet, or by an artificial cut across St. George Island, consideration being given to the respective needs of the cities of Apalachicola and Carrabelle for increased harbor facilities.

Mr. J. Warren Keifer, of Ohio, said:

I reserve the point of order against this paragraph. This is a provision to provide for a channel, a new name for a canal; deep-water harbor with entrance channel from the Gulf of Mexico by way of East Pass, West Pass, New Inlet, or by an artificial cut across St. George Island.

This is a purely separate matter from rivers and harbors altogether. It is a new improvement, and it is subject to the point of order, if any point of order is good, simply because it is an artificial channel, or a canal, if you please, utilizing the water of two harbors or a river and a harbor or two rivers; whatever it is it is subject to the point of order.

After debate, the Chairman[2] overruled the point of order.

1842. The preservation of Niagara Falls and the control and regulation of the Niagara River are subjects which have been reported by the Committee on Rivers and Harbors.

The Committee on Rivers and Harbors have reported as follows:

In 1909,[3] the resolution (H. J. Res. 262) extending the operation of an act for the regulation and control of the waters of the Niagara River and for the preservation of Niagara Falls.

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[1] Second session Sixty-first Congress, Record, p. 1946.

[2] Mr. John Dalzell, of Pennsylvania, Chairman.

[3] Second session Sixtieth Congress, Report No. 2265.

1843. Navigation of International boundary streams[1] and the construction of aids thereto have been considered by the Committee on Rivers and Harbors.

On February 14, 1908,[2] upon the suggestion of the Speaker,[3] by unanimous consent, the bill (H. R. 15669) to provide for construction of dams, canals, power stations, and locks for the improvement of navigation and development of water power on the St. Lawrence River was taken from the Committee on Foreign Affairs and referred to the Committee on Rivers and Harbors.

1844. The Committee on Rivers and Harbors has exercised jurisdiction over proposed legislation pertaining to drainage districts and levees, but may not report a bill relating to control of clerks of the War Department in the administration of such legislation.

On January 26, 1917,[4] during consideration of the bill (H. R. 20079), the river and harbor bill, in the Committee of the Whole on the state of the Union, Mr. William P. Borland, of Missouri, offered an amendment providing for the creation of a commission authorized to investigate the feasibility and advisability of a more comprehensive system of river and harbor improvements in the interest of navigation, and all uses of water relating thereto, and also the subject of cooperation between the United States and the several States, municipalities, or other political subdivisions of the States, including levee and drainage districts, corporations, and individuals, respectively. The heads of the several departments of the Government may, in their discretion, upon the request of the commission, through the Secretary of War, detail representatives from their respective departments to assist the commission in any feature of the several investigations herein authorized. The Secretary of War is hereby authorized to provide the commission with such clerical or other assistants as may be deemed necessary.

Mr. James R. Mann, of Illinois, made a point of order against the amendment and said:

Mr. Chairman, I make a point of order against that portion of the amendment which relates to levees and drainage districts that it is not in order; also to that part authorizing the Secretary of War to provide clerks and other assistants as he may deem necessary. The Committee on Rivers and Harbors does not have jurisdiction to provide clerical assistance in the War Department. That is a matter within the control of the Committee on Appropriations.

After debate, the Chairman[5] ruled:

The Chair would suggest to the gentleman that this committee has assumed jurisdiction and the House has acquiesced in that jurisdiction over drainage districts and levees on the Mississippi River, as well as on other rivers, and under authority conferred by other river and harbor bills, there is cooperation at the present time between individuals and corporation, municipalities and levee districts in the matter of drainage and reclamation of lands along rivers. That part of it might be in order. What the Chair is in doubt about is the authority of this committee to command the services of clerks in the departments.

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[1] See section 8913 of this work.

[2] First session Sixtieth Congress, Record, p. 2050.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] Second session Sixty-fourth Congress, Record, p. 2083.

[5] Mr. Henry T. Rainey, of Illinois, Chairman.

The Chair thinks that the clerks in the War Department are being paid for the services they render there under the direction of the Secretary of War, and, while the War Department has jurisdiction over rivers and this committee has the right at any time—perhaps this commission would also have the right, if conferred upon it by the committee—to call on the War Department for information, yet the Chair does not think that this committee has jurisdiction to report a bill giving to any commission the right to command the services of clerks from the War Department, take them out of the control of the Secretary of War, and subject them to their own control. Therefore, the Chair sustains the point of order.

1845. Authorization of interstate agreements relating to river improvements is a subject not within the jurisdiction of the Committee on Rivers and Harbors.

On June 26, 1917,[1] while the river and harbor bill (H.R. 4285) was under consideration in the Committee of the Whole House on the state of the Union, Mr. Andrew J. Volstead, of Minnesota, offered the following amendment:

That the Congress consents that the States of Minnesota, North Dakota, and South Dakota, or any two of them, may enter into any compact, agreement, or agreements with each other to improve navigation of boundary waters between said States and the waters tributary thereto; and said States, or any two of them, are authorized to and may, with the approval of the Secretary of War, make such improvements.

Mr. Irvine L. Lenroot, of Wisconsin, made the point of order that the subject of the proposed amendment was not germane to the bill.

After debate the Chairman [2]sustained the point of order.

1846. The building, maintenance, and operation of bridges across navigable waters or artificial waterways in process of construction is not within the jurisdiction of the Committee on Rivers and Harbors.

On January 15, 1915,[3] the river and harbor bill (H.R. 20189) was under consideration in Committee of the Whole House on the state of the Union, when the following paragraph was read:

Inland waterway between Rehoboth Bay and Delaware Bay, Del.: The Secretary of War is hereby authorized to condemn a right of way through the tracks of the Delaware, Maryland & Virginia Railroad Co. where the line of said waterway intersects said railroad tracks, the basis of condemnation to be the building, maintenance, and operation of a proper drawbridge by the United States, or the payment by the United States to the railroad company of such sum of money as may be awarded in the condemnation proceedings, as full compensation for such right of way, including actual cost of constructing such bridge and the capitalized cost of its maintenance and operation, whichever method may, in the judgment of the Secretary of War, be deemed most advantageous and economical to the United States.

Mr. James R. Mann, of Illinois, made the point of order that the matter was not within the jurisdiction of the committee reporting the bill.

After debate the Chairman [4] held:

It is insisted that this particular paragraph provides for condemnation proceedings, the basis of the condemnation proceedings to be the building, maintenance, and operation of a proper drawbridge by the United States or the payment by the United States to the railroad company of

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[1] First session Sixty-fifth Congress, Record, p. 4322.

[2] Pat Harrison, of Mississippi, Chairman.

[3] Third session Sixty-third Congress, Record, p. 1658.

[4] Henry T. Rainey, of Illinois, Chairman.

such sum of money as may be awarded in the condemnation proceedings, and in that event the proposition would resolve itself into an operation of that drawbridge in connection with this proposed excavation by the railroad company. The Chair thinks the matter of building bridges across any sort of a waterway is a matter that does not come within the jurisdiction of this committee. The fact that the particular waterway over which a bridge is to be built and maintained is not yet constructed does not help the matter any and does not give this committee jurisdiction, in the opinion of the Chair, of the building of this drawbridge or any other kind of a bridge at this place, and the Chair thinks the point of order is well taken. The point of order is sustained.

1847. Recent history of the Committee on Merchant Marine and Fisheries, Section 9 of Rule XI.

Section 9 of Rule XI provides for the reference of subjects relating—

to the merchant marine, including all transportation by water, Coast Guard, life-saving service, lighthouses, lightships, ocean derelicts, Coast and Geodetic Survey, Panama Canal, and fisheries to the Committee on the Merchant Marine and Fisheries.

There was no change in the phraseology of this rule from its adoption in 1887 [1] to 1932,[2] when the title of the committee was changed from the Committee on Merchant Marine and Fisheries to the Committee on Merchant Marine, Radio, and Fisheries, and the clause was amended to include radio. In 1935 [3] the original title was restored with increased jurisdiction and radio jurisdiction transferred to Interstate and Foreign Commerce.

The membership of the committee was increased in 1907 [4] from eighteen to nineteen by the adoption of Order No. 1, offered by Mr. John Dalzell, of Pennsylvania, and in 1911 [5] was further increased in the revision of that year to its present quota of twenty-one members.

1848. The Committee on Merchant Marine and Fisheries temporarily was made the Committee on Merchant Marine, Radio, and Fisheries.

Form of resolutions changing title of a committee and transferring jurisdiction to the new committee.

On January 4, 1932,[6] Mr. James W. Collier, of Mississippi, from the Committee on Ways and Means,[7] asked unanimous consent for the immediate consideration of the following resolution:

Resolved, That clause 9 of Rule X is amended to read as follows:

"9. On Merchant Marine, Radio, and Fisheries, to consist of 21 members."

Clause 9 of Rule XI is amended to read as follows:

"9. To merchant marine, radio, and fisheries—to the Committee on Merchant Marine, Radio, and Fisheries."

There was no objection and after brief debate the resolution was adopted.

Thereupon, on motion of Mr. Collier by unanimous consent, this resolution was considered and agreed to:

Resolved, That those Members of the House elected to the Committee on the Merchant Marine and Fisheries are hereby elected to the Committee on Merchant Marine, Radio, and Fish-

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[1] First session Fiftieth Congress, Record, p. 146.

[2] First session Seventy-second Congress, Record, p. 1222.

[3] First session Seventy-fourth Congress, Record, p. 2631.

[4] First session Sixtieth Congress, Record, p. 356.

[5] First session Sixty-second Congress, Record, pp. 11, 80.

[6] First session Seventy-second Congress, Record, p. 1222.

[7] See section 3616 of this work.

eries, and all records and papers of the Committee on the Merchant Marine and Fisheries are hereby transferred to the Committee on Merchant Marine, Radio, and Fisheries.

That all bills, resolutions, papers, documents, petitions, and memorials heretofore referred to the Committee on the Merchant Marine and Fisheries, are hereby referred to the Committee on Merchant Marine, Radio, and Fisheries.

This change of title was rescinded February 26, 1935.

1849. Subjects relating to the creation and activities of the United States Shipping Board including the adjustment and payment of claims arising under its administration and the regulation of vessels under its jurisdiction are reported by the Committee on Merchant Marine and Fisheries.

The Committee on Merchant Marine, Radio, and Fisheries have reported:

In 1916,[1] the bill (H. R. 15455) to establish the United States Shipping Board.

In 1919,[2] the bill (S. 663) providing for the regulation of vessels owned or operated by the United States Shipping Board.

In 1920,[3] the bill (H. R. 14074) to amend the shipping act of 1916.

In 1920[4] and 1921,[5] bills authorizing and directing the United States Shipping Board to adjust and pay certain claims.

1850. Bills relating to Alaskan fisheries belong to the Committee on the Merchant Marine and Fisheries rather than to the Committee on the Territories.

On January 13, 1921,[6] on suggestion of the Speaker,[7] by unanimous consent, the Committee on the Territories was discharged from the further consideration of the bill (H. R. 15665) providing for the protection and regulation of the fisheries of Alaska, and it was referred to the Committee on the Merchant Marine and Fisheries, which subsequently reported[8] it favorably.

The Committee on the Merchant Marine and Fisheries also reported, in 1908,[9] the bill (H. R. 14408) to encourage private salmon hatcheries in Alaska.

1851. Jurisdiction over bills relating to the protection of seals and other fur-bearing animals of Alaska, formerly exercised by the Committee on Ways and Means, has now been transferred to the Committee on the Merchant Marine and Fisheries.

On March 24, 1924,[10] Mr. William R. Green, of Iowa, in asking for a change of reference of bills, said:

Mr. Speaker, I ask unanimous consent for the rereference of two bills (H. R. 4104 and H. R. 754) which have been referred to the Ways and Means Committee. They relate to the fur-seal industry and the interest which the Government has in the matter, which now belongs to the

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[1] First session Sixty-fourth Congress, Report No. 659.

[2] First session Sixty-sixth Congress, Report No. 345.

[3] Second session Sixty-sixth Congress, Report No. 1026.

[4] Second session Sixty-sixth Congress, Report No. 660.

[5] Third session Sixty-sixth Congress, Report No. 1334.

[6] Third session Sixty-sixth Congress, Record, p. 1369.

[7] Frederick H. Gillett, of Massachusetts, Speaker.

[8] House Report No. 1270.

[9] First session Sixtieth Congress, Report No. 530.

[10] First session Sixty-eighth Congress, Record, p. 4945.

Department of Commerce. While these matters were probably within the jurisdiction of the Ways and Means Committee at one time, in my judgment they should now go to some other committee.

After debate, action on the request was deferred until later [1] in the day, when the request was submitted to the House by the Speaker and unanimously agreed to.

1852. The transportation of passengers on shipping is a subject within the jurisdiction of the Committee on the Merchant Marine and Fisheries.

The Committee on the Merchant Marine, Radio, and Fisheries reported:

In 1908,[2] the bill (S. 7172) relating to the transportation of passengers on coastwise shipping.

In 1919,[3] the bill (H. R. 11313) permitting the transportation of passengers on cargo vessels.

1853. The Committee on the Merchant Marine and Fisheries formerly had jurisdiction over subjects relating to radio service now exercised by the Committee on Ways and Means.

The Committee on the Merchant Marine, Radio, and Fisheries reported:

In 1932,[4] bills amending the radio act of 1927.

In 1926,[5] the bill (H. R. 9971) for the regulation of radio communications.

In 1920 [6] and 1921,[7] joint resolutions authorizing the operation of Government-owned radio stations for the use of the general public.

In 1910 [8] and 1912,[9] bills to regulate radio communication.

In 1909,[10] a bill to require radio installations on certain ocean steamers.

1854. The inspection of steamboats, the regulation of officering and manning vessels, and the classification and salaries of clerks in the Steamboat-inspection Service are subjects within the jurisdiction of the Committee on the Merchant Marine and Fisheries.

On December 30, 1914,[1] on motion of Mr. Joshua W. Alexander, of Missouri, by unanimous consent, after extended debate, the Committee on Interstate and Foreign Commerce was discharged from the further consideration of the bills (H. R. 20281 and S. 6782) providing for the appointment of inspectors in the Steam boat Inspection Service at ports where they are actually performing duty; also the bills (H. R. 20282 and S. 6781) increasing the number of inspectors in the Steamboat Inspection Service, and the bills were referred to the Committee on the Merchant Marine and Fisheries.

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[1] Record, p. 4954.

[2] First session Sixtieth Congress, Report No. 1735.

[3] Second session Sixty-sixth Congress, Report No. 524.

[4] First session Seventy-second Congress, Reports Nos. 2474 and 1116.

[5] First session Sixty-ninth Congress, Report No. 464.

[6] First session Sixty-seventh Congress, Report No. 59.

[7] Third session Sixty-sixth Congress, Report No. 1269. Second session Sixty-sixth Congress, Report No. 1003.

[8] Second session Sixty-second Congress, Report No. 582.

[9] Second session Sixty-first Congress, Report No. 924.

[10] Second session Sixtieth Congress, Report No. 2086.

[11] Third session Sixty-third Congress, Report, p. 756.

The Committee on the Merchant Marine and Fisheries reported:

In 1920,[1] a bill to classify and provide salaries for clerks in the Steamboat Inspection Service.

In 1912,[2] a bill to regulate the officering and manning of vessels subject to the inspection laws of the United States.

1855. The Committee on the Merchant Marine and Fisheries reports bills dealing with motor boats.

The Committee on the Merchant Marine and Fisheries reported, in 1909,[3] the bill (H. R. 27479) relating to equipment of motor boats and requiring the use of mufflers.

1856. The subject of tonnage taxes on vessels has been considered to be within the jurisdiction of the Committee on the Merchant Marine and Fisheries.

The Committee on the Merchant Marine and Fisheries reported, in 1919,[4] the bill (S. 4639) relating to tonnage duties on vessels entering otherwise than by sea.

1857. Measures dealing with the personnel of the merchant marine and with marine schools belong to the jurisdiction of the Committee on the Merchant Marine and Fisheries.

The Committee on the Merchant Marine, Radio, and Fisheries exercises jurisdiction over proposed legislation relating to the personnel of the merchant marine, and on May 15, 1920,[5] reported the bill (H. R. 13264) to provide for the award of a medal of merit to the personnel of the merchant marine of the United States of America.

In April 1910,[6] on motion of Mr. George E. Foss, of Illinois, by unanimous consent, the Committee on Naval Affairs was discharged from further consideration of the bill (H. R. 24145) for the establishment of marine schools, and the bill was referred to the Committee on the Merchant Marine and Fisheries.

1858. The Committee on Merchant Marine and Fisheries has reported on bills relating to international and interstate agreements on subjects within its jurisdiction.

The Committee on Merchant Marine, Radio, and Fisheries has exercised jurisdiction over proposed legislation pertaining to the preservation of fisheries and the establishment of ocean routes.

The committee reported in 1912[7] the joint resolution (H. J. Res. 297) to provide for an international agreement to establish lane routes for trans-Atlantic steamships.

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[1] Second session Sixty-sixth Congress, Report No. 983.

[2] Second session Sixty-second Congress, Report No. 648.

[3] Second session Sixtieth Congress, Report No. 2046.

[4] Second session Sixty-second Congress, Report No. 309.

[5] Second session Sixty-sixth Congress, Report No. 988.

[6] Second session Sixty-first Congress, Record, p. 4401.

[7] Second session Sixty-second Congress, Report No. 580.

On January 11, 1918,[1] Mr. Joshua W. Alexander, of Missouri, in submitting a motion for a change of reference of a bill, said:

Mr. Speaker, I ask unanimous consent for the rereference of the bill (H. R. 2617) to ratify the compact and agreement between the States of Oregon and Washington regarding concurrent jurisdiction over the waters of the Columbia River and its tributaries in connection with regulating, protecting, and preserving fish.

This bill was introduced by Mr. Hadley, of Washington, at the first session of this Congress and was referred to the Committee on the Judiciary. In the last Congress the gentleman from Washington introduced the bill and it was referred to the Committee on the Merchant Marine and Fisheries, and was reported out of that committee and passed by the House. In the opinion of the committee the bill ought to go to the Committee on the Merchant Marine and Fisheries.

The question being submitted, there was no objection, and the Committee on the Judiciary was discharged from consideration of the bill and it was referred to the Committee on the Merchant Marine and Fisheries.

1859. Bills pertaining to the regulation of common carriers by water have been considered by the Committee on the Merchant Marine and Fisheries.

On February 23, 1924,[2] the Speaker[3] called attention to the erroneous reference to the Committee on Ways and Means on February 21 of the bill (H. R. 7181) to regulate common carriers by water and asked unanimous consent for its rereference to the Committee on the Merchant Marine and Fisheries. There was no objection.

The Committee on the Merchant Marine and Fisheries reported, in 1925,[4] the bill (H. R. 12339) relating to the carriage of goods by sea.

1860. Recent history of the Committee on Agriculture, section 10 of Rule XI.

Section 10 of Rule XI provides for the reference of subjects relating—

to agriculture and forestry to the Committee on Agriculture.

In 1920[5] the authority to report appropriations for the Department of Agriculture, which had been exercised by the committee since 1880,[6] was transferred to the Committee on Appropriations.

The right to report at any time which had been accorded the committee in reporting its appropriation bill, and which was confined to that bill, ceased automatically with the repeal of the clause authorizing the receipt of estimates and the report of appropriations for the department.

The rule[7] fixing the membership of the committee at eighteen Members and one Delegate remained unchanged until 1911,[8] when it was amended increasing the committee to twenty-one Members and one Delegate. It was again amended in

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[1] Second session Sixty-fifth Congress, Record, p. 835.

[2] First session Sixty-eighth Congress, Record, p. 3031.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] Second session Sixty-eighth Congress, Report No. 1620.

[5] Second session Sixty-sixth Congress, Report No. 8121.

[6] Second session Forty-sixth Congress, Record, pp. 684–686.

[7] See section 4149 of Hinds' Precedents.

[8] First session Sixty-second Congress, Record, pp. 11, 80.

1933,[1] further increasing the membership to twenty-five Members and one Delegate, its present quota.

1861. Bills to discourage fictitious and gambling transactions in farm products have been considered within the jurisdiction of the Committee on Agriculture, even when an internal-revenue question was included.

On January 8, 1916,[2] on motion of Mr. Asbury F. Lever, of South Carolina, by unanimous consent, the Committee on Ways and Means was discharged from the consideration of the bill (H. R. 8010) to tax the privilege of dealing on exchanges, boards of trade, and similar places in contracts of sale of cotton for future delivery, and the bill was referred to the Committee on Agriculture.

The Committee on Agriculture have reported:

In 1922,[3] a bill for the prevention and removal of obstructions and burdens upon interstate commerce in grain by regulating transactions on grain future exchanges.

In 1921,[4] a bill taxing contracts for the sale of grain for future delivery, and options for such contracts and providing for the regulation of boards of trade.

In 1910,[5] a bill to prohibit transmission of messages by telephone, telegraph, cable, and other means of communication between the States and Territories and foreign nations relating to gambling in agricultural products.

In 1914,[6] the Cotton Futures Act, to regulate trading in cotton futures.

In 1921,[7] a bill to regulate grain exchanges.

Also,[8] a joint resolution requesting suspension of speculative short sales of agricultural products.

In 1919,[9] a bill relating to taxation of the sale of cotton futures.

In 1916,[10] a bill to tax the privilege of dealing on exchanges, boards of trade, and similar places in contracts of sale of cotton for future delivery.

1862. The Committee on Agriculture has reported as to the regulation of importation and inspection of livestock and dairy products, and the establishment and maintenance of quarantine stations for that purpose.

The Committee on Agriculture reported:

In 1925,[11] a bill relating to the admission of tick-infested cattle from Mexico into Texas.

In 1926,[12] a bill relating to the importation and inspection of cattle and a bill regulating the importation of milk and cream for the purpose of promoting the dairy industry and protecting the public health.

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[1] First session Seventy-third Congress, Record, p. 6371.
[2] First session Sixty-fourth Congress, Record, p. 744.
[3] Second session Sixty-seventh Congress, Report No. 1095.
[4] First session Sixty-seventh Congress, Report No. 44.
[5] Second session Sixty-first Congress, Report No. 969.
[6] Second session Sixty-third Congress, Report No. 765.
[7] Third session Sixty-sixth Congress, Report No. 1401.
[8] Report No. 1404.
[9] Third session Sixty-fifth Congress, Report No. 1151.
[10] First session Sixty-fourth Congress, Report No. 229.
[11] First session Sixty-eighth Congress, Report No. 126.
[12] First session Sixty-ninth Congress, Reports No. 1496, No. 1431.

In 1910,[1] a bill to provide for the establishment of an animal quarantine station.

1863. The importation and interstate transportation of trees, shrubs, and other nursery stock, quarantine regulations against insect pests and plant diseases, and the establishment of a national arboretum are subjects within the jurisdiction of the Committee on Agriculture.

On January 17, 1912,[2] upon suggestion of the Speaker,[3] by unanimous consent, the Committee on Interstate and Foreign Commerce was discharged from the consideration of the bill (H. R. 18000) to regulate the importation and interstate transportation of nursery stock; to enable the Secretary of Agriculture to appoint a Federal horticultural commission, and to define the powers of this commission in establishing and maintaining quarantine districts for plant diseases and insect pests, and to permit and regulate the movements of fruits, plants, and vegetables therefrom and the bill was referred to the Committee on Agriculture.

The Committee on Agriculture has had jurisdiction of the subjects of plant diseases and pests and the inspection, regulation, and quarantine to control them, and reported, in 1926[4] and 1912,[5] a bill to authorize the Secretary of Agriculture to inspect and certify as free from diseases and insect pests certain plant products offered for export.

In 1911[6] a bill to provide for the introduction of foreign nursery stock by permit only, and to establish a quarantine against diseases and infested nursery stock.

In 1909[7] a bill to provide for the inspection of nursery stock at ports of entry of the United States and to authorize a quarantine against importation and transportation of diseased nursery stock.

In 1926[8] a bill authorizing the Secretary of Agriculture to establish a national arboretum.

1864. The Committee on Agriculture has reported bills providing for the purchase of land to be used for quarantine stations, experiment stations, forest reserves, and watersheds.

Bills relating to the purchase of lands to be used for purposes and activities under the jurisdiction of the Committee on Agriculture have been reported by that committee. Thus it reported:

In 1920[9] a bill for the purchase of lands occupied by experimental vineyards near Fresno and Oakville, California, to be used as the site of an experiment station.

In 1923[10] a bill to purchase land for reforestation of watersheds.

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[1] Second session Sixty-first Congress, Record, p. 1655.

[2] Second session Sixty-second Congress, Report p. 1051.

[3] Champ Clark, of Missouri, Speaker.

[4] First session Sixty-ninth Congress, Report No. 188.

[5] Second session Sixty-second Congress, Reports. No. 1858.

[6] Third session Sixty-first Congress, Report No. 1858.

[7] Second session Sixtieth Congress, Report No. 2138.

[8] First session Sixty-ninth Congress, Report No. 776.

[9] Second session Sixty-sixth Congress, Report No. 902.

[10] Fourth session Sixty-seventh Congress, Report No. 1670.

In 1909[1] a bill for acquiring national forests in the Southern Appalachian Mountains.

In 1910[2] a bill for the purchase of land for an animal quarantine station in the State of Maryland.

1865. The subject of improving the breed of horses, even with the improvement of the cavalry as an object, belongs to the jurisdiction of the Committee on Agriculture.

On April 24, 1916,[3] Mr. Asbury F. Lever, of South Carolina, called attention to the fact that the bill (H. R. 14336) for the extension of the army remount system by the purchase of pure bred stallions of a type and breed adaptable for military purposes, had been referred to the Committee on Military Affairs, and asked unanimous consent that the reference be changed to the Committee on Agriculture. After brief debate the motion was unanimously agreed to.

1866. Bills providing for loans to farmers under emergency conditions have been reported by the Committee on Agriculture.

Measures extending agricultural credits for use of farmers under exceptional circumstances have been reported by the Committee on Agriculture. The committee reported:

In 1927,[4] a bill to provide loans for the purchase of seed, feed, and fertilizer for the use of farmers in crop-failure areas.

In 1922,[5] a bill authorizing the purchase of seed grain and livestock to be supplied to farmers in overflowed areas of the United State.

In 1920,[6] a bill providing loans to farmers in drouth-stricken sections of the United States for the purchase of seed for spring planting.

In 1920,[7] a joint resolution defining what shall constitute a crop failure under the rules and regulations issued by the departments of the Government in making loans of seed wheat to farmers for crop purposes.

1867. Bills for the stimulation of production, sale, and distribution of livestock and livestock products and the authorization or appropriations for international conferences on poultry and poultry products have been reported by the Committee on Agriculture.

Matters relating to the production, distribution, and improvement of livestock and poultry and their products are within the jurisdiction of the Committee on Agriculture. The committee have reported:

In 1921,[8] a bill to create a Federal livestock commission and stimulate the production, sale, and distribution of livestock and livestock products.

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[1] Second session Sixtieth Congress, Report No. 2027.

[2] Second session Sixty-first Congress, Report No. 1655.

[3] First session Sixty-fourth Congress, Record, p. 6770.

[4] Second session Sixty-ninth Congress, Report No. 1809.

[5] Second session Sixty-seventh Congress, Report No. 987.

[6] Second session Sixty-sixth Congress, Report No. 598.

[7] Report No. 972.

[8] Third session Sixty-sixth Congress, Report No. 1297.

In 1927,[1] a joint resolution for participation of the United States in the Third World's Poultry Congress to be held at Ottawa, Canada, in 1927.

In 1921,[2] a bill authorizing an appropriation for the World's Poultry Congress.

1868. Bills providing for the standardization in quality, weight, and measure of agricultural products and breadstuffs have been considered by the Committee on Agriculture.

The Committee on Agriculture have reported bills establishing standards in quality and measure of cereals and food products as follows:

In 1926,[3] a bill to establish standard weights for loaves of bread, to prevent deception in respect thereto, and to prevent contamination thereof.

In 1921,[4] a bill prescribing standards and grades for spring wheat.

1869. The control of stockyards and packing plants and the regulation of interstate and foreign commerce in livestock, dairy, and livestock products, poultry and poultry products, are subjects within the jurisdiction of the Committee on Agriculture.

The Committee on Agriculture reported:

In 1921,[5] the bill (H. R. 6320), known as the packers and stockyards act, to regulate interstate and foreign commerce in livestock products, dairy products, poultry, poultry products, and eggs.

In 1924,[6] and 1926,[7] bills to amend the packers and stockyards act of 1921.

1870. The protection of migratory birds, the establishment of refuges for that purpose, and the regulation of hunting and shooting grounds in that connection are subjects within the jurisdiction of the Committee on Agriculture.

The Committee on Agriculture reported:

In 1926,[8] a bill for the establishment of migratory-bird refuges to furnish in perpetuity homes for migratory birds, the establishment of public shooting grounds to preserve at the American system of free shooting, the provision of funds for establishing such areas, and the furnishing of adequate protection for migratory birds.

In 1924,[9] a bill for the purpose of more effectively meeting the obligations of the existing migratory-bird treaty with Great Britain by the establishment of bird refuges to protect migratory birds.

In 1922,[10] a bill providing for the establishment of shooting for the public, for establishing game refuges and breeding grounds, for protecting migratory birds and requiring a Federal license to hunt them.

In 1912,[11] a bill to protect migratory game birds of the United States.

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[1] First session Sixty-ninth Congress, Report No. 779.
[2] Third session Sixty-sixth Congress, Report No. 1296.
[3] First session Sixty-ninth Congress, Report No. 1411.
[4] First session Sixty-seventh Congress, Report No. 357.
[5] First session Sixty-seventh Congress, Report No. 77.
[6] First session Sixty-eighth Congress, Report No. 537.
[7] First session Sixty-ninth Congress, Report No. 205.
[8] First session Sixty-ninth Congress, Report No. 746.
[9] First session Sixty-eighth Congress, Report No. 402.
[10] Second session Sixty-seventh Congress, Report No. 999.
[11] Second session Sixty-second Congress, Report No. 680.

1871. The cooperative marketing and distribution of farm products, the disposition of surplus agricultural products abroad, proposed legislation for the stabilization and control of prices of foodstuffs, and for the establishment of governmental agencies for the administration of such legislation are within the jurisdiction of the Committee on Agriculture.

The Committee on Agriculture reported:

In 1927[1] and 1925,[2] bills known as the McNary-Haugen bills, to establish a Federal farm board to aid in the orderly marketing and in the control and disposition of the surplus of agricultural commodities.

In 1926,[3] a bill to prevent the destruction or dumping, without good and sufficient cause therefore, of farm produce received in interstate commerce by commission merchants and others and to require them truly and correctly to account for all farm produce received by them.

Also, a bill to create a division of cooperative marketing in the Department of Agriculture.

In 1916,[4] a bill to establish a Federal farm advisory council and a farmers' marketing commission, to aid in the development of major cooperative associations for the marketing of agricultural commodities, and to aid in the disposition of surpluses of such commodities.

Also a bill to place the agricultural industry on a sound commercial basis and to encourage the national cooperative marketing of agricultural products.

In 1925,[5] a bill creating a Federal cooperative marketing board to provide for the registration of cooperative marketing clearing house, and terminal market organizations.

In 1923,[6] a bill to authorize the Secretary of Agriculture to purchase, store, and sell wheat, and to secure and maintain to the producer a reasonable price for wheat, and to the consumer a reasonable price for bread, and to stabilize wheat values.

Also, a bill to create the American stabilizing commission and to provide for stabilizing the prices of certain farm products.

In 1919,[7] a bill to provide for the national welfare by continuing the United States Sugar Equalization Board.

In 1919,[8] a bill to prevent hoarding and deterioration of cold-storage foods and to regulate their shipment in interstate commerce.

In 1917,[9] a bill to provide for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel.

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[1] Second session Sixty-ninth Congress, Report No. 1790.

[2] Second session Sixty-eighth Congress, Report No. 1595.

[3] First session Sixty-ninth Congress, Reports No;. 1570, No. 116.

[4] First session Sixty-ninth Congress, Reports No. 994, 1004.

[5] Second session Sixty-eighth Congress, Report No. 1517.

[6] Fourth session Sixty-seventh Congress, Reports No. 1671, No. 1672.

[7] Second session Sixty-sixth Congress, Report No. 506.

[8] First session Sixty-sixty Congress, Reports, No. 337, No. 247.

[9] First session Sixty-fifth Congress, Report No. 75.

1872. The compilation and dissemination of statistics and reports on agricultural products are subjects within the jurisdiction of the Committee on Agriculture.

In 1926,[1] the Committee on Agriculture reported bills providing for the collection and publication of statistics of tobacco by the Department of Agriculture, and authorizing the Department of Agriculture to issue semimonthly cotton crop reports and providing for their publication simultaneously with the ginning reports of the Department of Commerce.

1873. The adulteration of agricultural products[2] and their importation and control are subjects within the jurisdiction of the Committee on Agriculture.

The Committee on Agriculture has exercised jurisdiction over the adulteration of agricultural products in general and incidentally their importation and distribution when adulterated.

Thus the committee reported:

In 1927,[3] the bills providing for the control of adulterated seeds and the staining of seeds unfit for seeding purposes.

In 1913,[4] a bill relating to the adulteration of butter and its importation and distribution.

1874. Bills to prevent the adulteration, misbranding, manufacture, sale, or transportation of foods, drugs, medicines, and liquors have occasionally been reported by the Committee on Agriculture.

Although the subject of adulteration and misbranding of foods and drugs has generally been considered within the jurisdiction of the Committee on Interstate and Foreign Commerce, several bills relating to such subjects have more recently been reported by the Committee on Agriculture. Thus the Committee on Agriculture reported:

In 1924,[5] a bill to amend an act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein.

In 1919,[6] a bill to amend the pure food and drugs act of June 30, 1906, amended by the act approved March, 1913, relating to the adulteration and misbranding of foods and drugs.

In 1912,[7] a bill to amend a law relating to the manufacture and sale of adulterated, processed, or renovated butter.

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[1] First session Sixty-ninth Congress, Reports No. 1371, No. 1367.

[2] See section 8853 of this volume.

[3] First session Sixty-ninth Congress, Reports No. 500, 770.

[4] Third session Sixty-second Congress, Report No. 1427.

[5] First session Sixty-eighth Congress, Report No. 125.

[6] First session Sixty-sixth Congress, Report No. 438.

[7] Second session Sixty-second Congress, Report No. 813.

1875. Bills relating to the subject of farm risk insurance have been referred to the Committee on Agriculture.

In 1922,[1] and 1917,[2] bills to authorize the establishment of a Bureau of Farm Risk Insurance in the Treasury Department, were referred to the Committee on Agriculture.

1876. The Committee on Agriculture exercises jurisdiction over bills relating to the purchase, protection, and reforestation of watersheds of navigable streams and cooperation between the States or on the part of the Federal Government with the States for such purposes.

The Committee on Agriculture has reported:

In 1926,[3] bills relating to the cooperation of any State with any other State or States, or with the United States, for the protection of the watersheds of navigable streams, and the appointment of a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers.

In 1911,[4] a bill to reserve certain lands and to incorporate the same and make them a part of the Pocatello National Forest reserve for the purpose of protecting the watershed of the Pocatello River in the State of Idaho.

In 1910,[5] a bill providing for the appointment of a commission to purchase lands for the preservation of watersheds of navigable rivers.

1877. Investigation of the Department of the Interior and the Department of Agriculture has been considered to be within the jurisdiction of the Committee on Agriculture.

The authorization of an investigation of official conduct in the administration of the affairs of the Department of the Interior and the Department of Agriculture has been held to come within the jurisdiction of the Committee on Agriculture.

In 1910[6] the Committee on Agriculture to which was referred the report of the Ballinger-Pinchot investigating committee, a joint committee of the Senate and the House of Representatives upon the investigation of the Interior Department and the Bureau of Forestry of the Department of Agriculture, reported it back without amendment and accompanied by a report both of which were referred to the House Calendar.

1878. Recent history of the Committee on Foreign Affairs, section 11 of Rule XI.

Section 11 of Rule XI provides for the reference of subjects relating—

to the relations of the United States with foreign nations to the Committee on Foreign Affairs.

This rule was first adopted in its present form in 1822,[7] and remained unchanged until the revision of 1880[8] when it was amended to include jurisdiction over germane

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[1] Second session Sixty-seventh Congress, Record, p. 2205.
[2] First session Sixty-fifth Congress, Record, p. 4122.
[3] First session Sixty-ninth Congress, Reports No. 431, 460.
[4] Third session Sixty-first Congress, Record, p. 1467.
[5] Second session Sixty-first Congress, Report No. 1063.
[6] Third session Sixty-first Congress, Report No. 2044.
[7] First session Seventeenth Congress, Journal, p. 351.
[8] Second session Forty-sixth Congress, Record, p. 205.

appropriations. In 1920,[1] the clause authorizing the committee to report appropriations was omitted and the rule returned to the form in which it was originally adopted. The privilege of reporting at any time was automatically relinquished with the right to report appropriations.

The membership of the committee was increased in 1907[2] from eighteen to nineteen by the adoption of Order No. 1 offered by Mr. John Dalzell, of Pennsylvania, and in 1911[3] was further increased to twenty-one, and in 1933,[4] to its present membership of twenty-five members.

1879. The general affairs of the Consular Service and the acquisition of land and buildings for legations in foreign capitals are within the jurisdiction of the Committee on Foreign Affairs.

The Committee on Foreign Affairs reported on subjects as follows:

In 1920,[5] a bill for the purchase of buildings and grounds for the embassy of the United States at Brussels, Belgium.

In 1908,[6] a bill for the disposition of land owned by the United States Government in foreign countries.

Also, a bill to authorize the purchase of buildings and lands for the consular establishments in China, Japan, and Korea.

1880. Resolutions of intervention abroad and declarations of war and peace are within the jurisdiction of the Committee on Foreign Affairs.

The Committee on Foreign Affairs reported:

In 1917,[7] the joint resolution (H. J. Res. No. 24) declaring a state of war to exist between the Imperial German Government and the people of the United States of America.

In 1917,[8] the joint resolution (H. J. Res. 169) declaring a state of war to exist between the Imperial and Royal Austro-Hungarian Government and the Government and the people of the United States and making provision to prosecute the same.

In 1921,[9] the joint resolution (S. J. Res. 16) terminating the state of war between the Imperial German Government and the United States of America and between the Imperial and Royal Austro-Hungarian Government and the United States of America.

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[1] Second session Sixty-sixth Congress, Record, p. 8121.
[2] First session Sixtieth Congress, Record, p. 356.
[3] First session Sixty-second Congress, Record, pp. 11, 80.
[4] First session Seventy-third Congress, Record, p. 6371.
[5] Second session Sixty-sixth Congress, Report No. 909.
[6] First session Sixtieth Congress, Reports Nos. 1559, 1109.
[7] First session Sixty-fifth Congress, Record, p. 306.
[8] Second session Sixty-fifth Congress, Report No. 203.
[9] First session Sixty-seventh Congress, Report No. 148.

1881. Control of the waters, and preservation of natural resources, of international boundary streams are within the general but not the exclusive jurisdiction [1] of the Committee on Foreign Affairs.

In 1912,[2] the Committee on Foreign Affairs reported the joint resolution (H. J. Res 232) for the control of the waters of the Niagara River and the preservation of Niagara Falls, relating to the use of control of the waters adjacent to an international boundary line.

1882. The Committee on Foreign Affairs has exercised general but not exclusive jurisdiction over projects of general legislation pertaining to claims [3] having international relations.

Bills authorizing indemnity of foreign governments for death of subjects in the United States are properly referred to the union calendar.

The Committee on Foreign Affairs reported:

In 1927 [4] a bill authorizing indemnity to Great Britain on account of the death of an English citizen.

In 1921 [5] bills authorizing payment of indemnity to the Government of Japan for the benefit of families of Japanese citizen subjects.

In 1916 [6] a bill to indemnify the Norwegian Government for detention of three nationals of Norway in Hudson, New Jersey.

On August 31, 1914,[7] on motion of Mr. Horace W. Vaughan, of Texas, by unanimous consent, the Committee on Claims was discharged from consideration of the bill (S. 4254) to enable the Secretary of War to pay the amount awarded to the Malambo fire claimants by the joint commission under Article 6 of the treaty of November 19, 1903, between the United States and Panama, and the bill was referred to the Committee on Foreign Affairs.

On September 3, 1913,[8] Mr. Henry D. Flood, of Virginia, asked unanimous consent for immediate consideration of the bill (H. R. 7384), reading as follows:

> That there is hereby authorized to be paid, out of any money in the Treasury not otherwise appropriated, out of humane consideration and without reference to the question of liability therefore, to the Italian Government, as full indemnity to the heirs of Angelo Albano, an Italian subject, who was killed by an armed mob at Tampa, Fla., on the 20th day of September, 1910, the sum of $6,000.

Mr. James R. Mann, of Illinois, made the point of order that the bill was improperly on the Union Calendar and should be placed on the Private Calendar.

Mr. Flood maintained that the bill had been correctly referred to the Union Calendar and said:

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[1] See section 1843 of this book.

[2] Second session Sixty-second Congress, Report No. 340.

[3] The Appropriations Committee also reports awards of money to foreign nations in pursuance of treaties for the adjustment of claims or as acts of grace.

[4] First session Sixty-ninth Congress, Report No. 909.

[5] First session Sixty-seventh Congress, Reports No. 269, 270.

[6] First session Sixty-fourth Congress, Report No. 1026.

[7] Second session, Sixty-third Congress, Record, p. 14512.

[8] First session Sixty-third Congress, Journal, p. 372, Record, p. 4155.

There are many precedents for the course this bill has pursued.

On March 11, 1895, the corpse of A. J. Hixon, an American saloonkeeper, was found in the coal field of Rouse, Colo. A coroner's jury found that he was murdered by an Italian miner named Andinino, who was immediately taken to Walsenburg, 7 miles away, and lodged in jail. The following night seven masked and armed men got into the jail and killed Andinino and his companion. The Italian ambassador formulated a claim, and on June 30, 1896, Mr. Olney reported that the facts were without dispute and suggested that they be submitted to the consideration of Congress.

On February 3, 1896, the President in a message to Congress recommended that without discussing the question of the liability of the United States either by reason of treaty obligations or under the general rules of international law, Congress considered the property of making prompt and reasonable pecuniary provision for those injured and for the families of those who were killed. The deficiency act approved June 8, 1896, carried a provision for the payment to the Italian Government for full indemnity to the heirs of three of its subjects "who were riotously killed, and to two others who were injured, in the State of Colorado by residents of that State, $10,000."

This was treated as a public and not a private bill.

In 1896 three persons of Italian origin, who were being held on a charge of homicide, were lynched by a mob at Hahnville, La. The Italian ambassador complained a failure of justice in the case, and Congress, in the deficiency act of July 19, 1897, appropriated the sum of $6,000 to be paid "out of humane consideration and without reference to the question of liability therefor to the Italian Government, as full indemnity to the heirs of three of its subjects."

This was treated in its reference, its report, and its course through this House as a public and not a private bill.

On July 21, 1899, five persons of Italian origin were lynched by a mob at Tallulah, La.

The authorities of the State and a representative of the Italian Embassy having separately investigated the occurrence, with discrepant results, particularly as to the alleged citizenship of the victims, and it not appearing that the State had been able to discover and punish the violators of the law, an independent investigation was conducted through the agency of the Department of State. President McKinley in his annual messages of December 3, 1899 and 1900, strongly urged upon Congress the desirability of enacting legislation making offenses against the treaty rights of foreigners domiciled in the United States cognizable in the Federal courts. Congress appropriated $5,000 as indemnity in this case.

This was treated as a public and not as a private bill.

On July 15, 1901, the Italian Embassy at Washington urgently presented to the department the case of three Italians, two of whom were killed and the third wounded at Erwin, Miss. The Italian Embassy protested.

This protest was transmitted to the committees of the Senate and House of Representatives having under consideration the President's recommendation that indemnity be paid to the families of the victims and that legislation be enacted to give the Federal courts original jurisdiction of treaty offenses against aliens.

By the act of March 3, 1903, the sum of $5,000 was appropriated to be paid "out of humane consideration, without reference to the question of liability therefor to the Italian Government," as full indemnity to the heirs of the men who were slain and to the one who was injured by an armed mob at Erwin, Miss., on July 11, 1901.

There can be no doubt, Mr. Speaker, that this is a public bill and is properly on the Union Calendar.

Some of these bills have been reported from the Appropriations Committee and some from Foreign Affairs.

Mr. Mann rejoined:

Now, what is this bill? It provides for the payment of money to the Italian Government as full indemnity to the heirs of Angelo Alvano, and plainly means that it is a bill to give to the heirs of this deceased Italian the amount of money appropriated by the bill, just as much so as though it had plainly said that it was to pay to the persons specified as the heirs the sum of money

stated. The fact that they are not specified by name does not prevent it being a private bill. The fact that the money is paid to the parties through the hands of the Italian Government does not change its character, because this is a bill for the payment of a sum of money as full indemnity to the heirs of a particular person. I do not see how any bill could be more of a private bill than that is.

The Speaker [1] ruled:

One of the most difficult things, and one of the most unsettled things, that the Speaker has to deal with is the reference of bills to the committees and to the calendars. There are exceptions all along the line. Sometimes two or three committees have more or less claim to a bill, or the Speaker might refer the bill to any one of three committees with some propriety; sometimes possibly to any one of four. The Chair never found one of that sort, but frequently there are bills which the Chair might refer to either one of two or three committees. The most striking example of its that I remember since I have been Speaker was this: Somebody introduced a bill to fix the dimensions of an apple barrel. The Committee on interstate and Foreign Commerce claimed that it had jurisdiction of that bill, because it related to barrels that were to be used in interstate commerce. That was the only justification that committee had. The Committee on Coinage, Weights, and Measures claimed the bill on the ground that they were authorized to fix measures. The Agricultural Committee claimed in on the ground that nobody raised any apples except people who were engaged in agriculture. After a good deal of wrangling about it the Speaker referred the bill to the Committee on Coinage, Weights, and Measures.

Ordinarily a bill taking money out of the Treasury ought to be referred to the Union Calendar; but there is no doubt that this bill was properly referred to the Committee on Foreign Affairs. It is a matter with a foreign government. The other day the gentleman from Virginia [Mr. Flood] introduced into the House a bill to appropriate $100,000 to pay the expenses of Americans getting out of Mexico.

The Speaker referred that bill to the Committee on Appropriations. Ordinarily it ought to have gone to the Committee on Foreign Affairs and would have gone to that committee, and the gentleman from Virginia [Mr. Flood] strenuously insisted that the Committee on Foreign Affairs ought to have charge of its; but the quickest way to get that money was to refer the bill to the Committee on Appropriations, because that committee is going to call up an urgent deficiency bill right away, and the quicker those people get the money the better it will be for them. So the Speaker referred that, as an exception to the general rule, to the Committee on Appropriations.

This bill which the gentleman from Virginia [Mr. Flood] is endeavoring to bring before the House looks on its face very much like a private bill, and in one sense it is a private bill, but in another sense it is a matter of international comity, and it is important because the Italian Government has thought it of enough importance to make it a question with our Government. Therefore the Chair overrules the point of order.

1883. Questions relating to the protection of American citizens a board and expatriation belong tot he jurisdiction of the Committee on Foreign Affairs.

On December 3, 1907,[2] on motion of Mr. James B. Perkins, of New York, by unanimous consent, reference of the bill (H.R. 482) relative to the expatriation of citizens and their protection abroad, was changed from the Committee on Immigration and Naturalization to the Committee on Foreign Affairs.

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[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixtieth Congress, Record, p. 112.

1884. The Committee on Foreign Affairs has general jurisdiction on the subject of international conferences and congresses.

The Committee on foreign Affairs reported:

In 1927, bills and resolutions relating to various international commissions, conferences, and congresses, including a conference [1] on education, rehabilitation, reclamation, and recreation at Honolulu, a conference [2] on limitation of armaments, an international sanitary conference [3] on soil science, an international dental [4] congress, an international sanitary conference [5] at Paris, a Pan American congress [6] at Panama; the permanent association [7] of the international road congresses and the Third Hague conference [8] for the codification of international law.

In 1921,[9] a joint resolution concurring in the declared purpose of the President of the United States to call an international conference to limit armaments.

In 1912,[10] a joint resolution relating to the appointment of a commission to forward universal peace.

In 1908,[11] a concurrent resolution authorizing the Department of State to invite governments of other countries to send representatives to an international congress on tuberculosis.

1885. The Committee on Foreign Affairs exercises general but not exclusive jurisdiction of authorizations to receive medals or decorations from foreign governments, extension of thanks of Congress to foreign governments and erection of monuments in foreign lands.

The Committee on Foreign Affairs reported:

In 1927,[12] a bill providing for the erection in France of a monument to American colored troops in the World War.

In 1921,[13] a bill authorizing bestowal of the Congressional medal of honor upon the unknown, unidentified French soldier buried in the Arc de Triomphe.

In 1916,[14] a bill to authorize the President of the United States to extend to foreign government participating in the Panama-California International Exposition the grateful appreciation of the Government and the people of the United States.

On April 8, 1914,[15] on motion of Mr. Frank E. Doremus, of Michigan, by unanimous consent, the Committee on Military Affairs was discharged from the consid-

[1] First session Sixty-ninth Congress, Report No. 1335.
[2] Report No. 62.
[3] Report No. 418.
[4] Report No. 865.
[5] Report No. 966.
[6] Report No. 420.
[7] Report No. 1130.
[8] Report No. 1607.
[9] First session Sixty-seventh Congress, Report No. 140.
[10] Second session Sixty-second Congress, Report No. 589.
[11] First session Sixtieth Congress, Report No. 536.
[12] First session Sixty-ninth Congress, Report No. 647.
[13] Third session Sixty-sixth Congress, Report No. 1322.
[14] First session Sixty-fourth Congress, Report No. 1029.
[15] Second session Sixty-third Congress, Record, p. 6403.

eration of the bill (H. R. 14128) granting permission to Lieut. Col. John P. Finley to accept and wear a decoration presented by the Sultan of Turkey, and the bill was referred to the Committee on Foreign Affairs.

1886. Measures authorizing relief of distress in foreign countries have been reported by the Committee on Foreign Affairs.

The Committee on Foreign Affairs reported:

In 1924,[1] the joint resolution (H. J. Res. 180) for the relief of the distressed and starving women and children of Germany. Debate on this resolution in Committee of the Whole includes a tabulation[2] of all previous instances in which the Congress had granted relief to sufferers on account of fires, floods, earthquakes, and wars.

In 1921,[3] a concurrent resolution (H. Con. Res. 71) to designate a day on which our people may be urged to contribute to the need of the suffering populations of the world stricken by war, famine, and pestilence.

1887. Bills providing for the appointment of commissions to confer with foreign governments relative to matters of common interest between such governments and the Government of the United States have been reported by the Committee on Foreign Affairs.

The Committee on Foreign Affairs reported:

In 1921,[4] a bill authorizing the appointment of a commission to confer with the Dominion government or the provincial governments of Quebec, Ontario, and New Brunswick as to certain restrictive orders in Council of the said Provinces relative to the exportation of pulp wood therefrom to the United States.

1888. Mandates over foreign countries and authorization to the Executive to accept mandates are within the jurisdiction of the Committee on Foreign Affairs.

The Committee on Foreign Affairs reported, in 1920,[5] a concurrent resolution (S. Con. Res. 27) declining to grant to the Executive the power to accept a mandate over Armenia.

1889. Reception of gifts from foreign powers and acceptance of decorations and orders conferred by foreign governments are subjects within the jurisdiction of the Committee on Foreign Affairs.

On April 8, 1914,[6] on motion of Mr. Frank E. Doremus, of Michigan, by unanimous consent, the bill (H. R. 14128) granting permission to Lieut. Col. John P. Finley to accept and wear a decoration presented by the Sultan of Turkey, was taken from the Committee on Military Affairs to which it had been erroneously referred and was rereferred to the Committee on Foreign Affairs.

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[1] First session Sixty-eighth Congress, Report No. 256.

[2] Record, p. 4823.

[3] Third session Sixty-sixth Congress, Report No. 1186.

[4] First session Sixty-seventh Congress, Report No. 266.

[5] Second session Sixty-sixth Congress, Report No. 1101.

[6] Second session Sixty-third Congress, Record, p. 6403.

1890. Recent history of the Committee on Military Affairs, Section 12 of Rule XI.

Section 12 of Rule XI provides for the reference of subjects relating—

to the Military Establishment, including the increase or reduction of commissioned officers and enlisted men and their pay and allowances, the militia, and the public defense, to the committee on Military Affairs.

In 1911,[1] coincident with the discontinuance of the Committee on the Militia, this rule was amended to include the present provision for the militia. The adoption of the amendment was largely a matter of form as the functions of the former committee had already been taken over by the Committee on Military Affairs[2] and the Committee on the Militia had long been practically obsolete.

In 1920,[3] jurisdiction of appropriations was taken from the Committee on Military Affairs in common with other appropriating committees, and the rule was further amended to include the increase or reduction of commissioned officers and further amended to include the increase or reduction of commissioned officers and enlisted men and their pay and allowances. In this form the rule has been adopted by each succeeding Congress.

The membership of the committee was increased by one Member, in 1907,[4] by the adoption of Order No. 1 offered by Mr. John Dalzell of Pennsylvania.

It was further increased in 1911[5] to one Delegate and twenty-one Members, and again increased to its present membership, one Delegate and twenty-five Members, in the general increase of 1933.[6]

1891. Legislation relating to the establishment and care of national cemeteries, national military parks, and provisions for roads, walks, and curbs within and for such reservations, and the marking of graves of Confederate soldiers is within the jurisdiction of the Committee on Military Affairs.

The Committee on Military Affairs reported:

In 1908,[7] a bill authorizing the construction of a road from the Highway Bridge across the Potomac River to Arlington Cemetery.

Also,[8] a bill providing for sidewalks and curbs in and around the National Cemetery at Fort Smith, Arkansas.

In 1920,[9] a bill providing for a report on the cost of improving and maintaining the Government boulevard on Missionary Ridge, in the Chickamauga and Chattanooga National Military Park.

In 1919,[10] a bill with reference to a national military park on the plains of Chalmette, below the City of New Orleans.

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[1] First session Sixty-second Congress, Record, pp. 12, 80.

[2] Hinds' Precedents, IV, 4179.

[3] Second session Sixty-sixth Congress, Record, p. 8121.

[4] First session Sixtieth Congress, Record, p. 356.

[5] First session Sixty-second Congress, Record, pp. 11, 80.

[6] First session Seventy-third Congress, Record, p. 6371.

[7] First session Sixtieth Congress, Report No. 1207.

[8] First session Sixtieth Congress, Report No. 1510.

[9] Second session Sixty-sixth Congress, Report No. 769.

[10] Second session Sixty-sixth Congress, Report No. 523.

In 1908,[1] a joint resolution to provide for the appropriate marking of the graves of Confederate soldiers and sailors who died in Northern prisons.

On February 23, 1924,[2] the Speaker[3] called attention to a number of bills, the reference of which he considered erroneous, and asked unanimous consent for their proper reference. There was no objection and the bills were rereferred as suggested. Among them was the bill (H. R. 7182) to establish the Jackson National Forest in the State of South Carolina, which was, by consent, taken from the Committee on the Public Lands and referred to the Committee on Military Affairs.

1892. The acquisition and conveyance of lands for military reservations, the granting of easements upon and across and the improvement of such reservations including the bridging of nonnavigable streams therein, are subjects within the jurisdiction of the Committee on Military Affairs.

The Committee on Military Affairs reported:

In 1926,[4] a bill authorizing the Secretary of War to grant easements in and upon public military reservations and other lands under his control.

Also, bills[5] to provide for the inspection of the battle fields of Kings Mountain, South Carolina, Stone River, Tennessee, and Bull Run, Virginia.

Also, a bill[6] authorizing an appropriation for the construction of a roadway and walk leading to and around the Chalmette Monument, Chalmette, Louisiana.

Also, a bill[7] authorizing the use for permanent construction at military post of the proceeds from the sale of surplus War Department real property, and authorizing the sale of certain military reservations.

In 1921,[8] a bill to provide a Government-owned water-service system for the Fort Monroe Military Reservation.

In 1921,[9] a bill granting to the City and County of Honolulu, Hawaii, a right of way over and across the Fort de Russy Military Reservation, for the purpose of extending its system.

In 1920,[10] a bill to convey to the Big Rock Stone and Construction Company, a portion of the military reservation of Fort Logan H. Roots, in the State of Arkansas.

In 1919,[11] a bill transferring certain real estate from the jurisdiction of the War Department to the jurisdiction of the Treasury Department and certain other real estate from the jurisdiction of the Treasury Department to the jurisdiction of the War Department.

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[1] First session Sixtieth Congress, Report No. 325.
[2] First session Sixty-eighty Congress, Record, p. 3031.
[3] First session Sixty-ninth Congress, Record, p. 3031.
[4] First session Sixty-ninth Congress, Report No. 1019.
[5] Reports No. 1508, 1158, 1076, 699.
[6] Report No. 1494.
[7] Report No. 374.
[8] First session Sixty-seventh Congress, Report No. 225.
[9] Third session Sixty-sixth Congress, Report No. 1172.
[10] Second session Sixty-sixth Congress, Report. 803.
[11] First session Sixty-sixth Congress, Report No. 418.

In 1910,[1] a bill providing for the repair and rebuilding of the road from Harrisonville, New Jersey, to the post of Fort Mott, and the National Cemetery at Finns Point, New Jersey.

In 1908,[2] a bill authorizing and empowering the Secretary of War to convey to the Delaware and Hudson Railway Company a right of way for railroad purposes upon and across the military reservation of Plattsburg Barracks, at Plattsburg, New York, in exchange for the release to the United States of all rights of said company and its subsidiary companies within the limits of said military reservation.

On April 20, 1916,[3] on motion of Mr. Guy T. Helvering, of Kansas, the Committee on Interstate and Foreign Commerce was discharged from the consideration of the bill (H. R. 13477) authorizing the replacement of a bridge across the Republican River near Fort Riley, Kansas, a nonnavigable river on a military reservation, under direction of the Secretary of War, and the bill was referred to the Committee on Military Affairs.

On July 28, 1919,[4] on motion of Mr. Frederick R. Lehlbach, of New Jersey, by unanimous consent, the Committee on Appropriations was discharged from the consideration of the bill (H. R. 7708) for the condemnation and purchase of a site for a target range by the War Department, and the bill was referred to the Committee on Military Affairs.

1893. Bills relating to the restoration of noted estates and historic buildings on military reservations are within the jurisdiction of the Committee on Military Affairs rather than the Committee on Public Buildings and Grounds.

On January 8, 1932,[5] following the reading and approval of the Journal, Mr. Fritz G. Lanham, of Texas, from the Committee on Public Buildings and Grounds, submitted a request as follows:

> Mr. Speaker, I ask unanimous consent that the bill H. R. 7014 referred to the Committee on Public Buildings and Grounds be rereferred to the Committee on Military Affairs. This bill authorizes the restoration and occupation of the houses and grounds known as Belvoir on the former Lord Fairfax estate upon the Fort Humphreys military reservation in Fairfax County, Va., appropriating $40,000 for such uses and for other purposes. It seems fair that this should go to the Military Affairs Committee inasmuch as it has to be passed upon by the Secretary of War.

There was no objection.

1894. Legislation tending to promote peace and discourage war has been considered by the Committee on Military Affairs.

On January 19, 1924,[6] by request of the Speaker,[7] by unanimous consent, the Committee on the Judiciary was discharged from the consideration of the joint

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[1] Second session Sixty-first Congress, Report No. 472.

[2] First session Sixtieth Congress, Report No. 1146.

[3] First session Sixty-fourth Congress, Record, p. 6529.

[4] First session Sixty-sixth Congress, Record, p. 3248.

[5] First session Seventy-second Congress, Record, p. 1505.

[6] First session Sixty-eighty Congress, Record, p. 1157.

[7] Frederick H. Gillett, Speaker.

resolution (H. J. Res. 128) to promote peace and equalize the burdens and minify the profits of war, and the bill was referred to the Committee on Military Affairs.

1895. The disposition of war trophies and devices and the distribution of obsolete weapons and armament are subjects within the jurisdiction of the Committee on Military Affairs.

The Committee on Military Affairs reported:

In 1926,[1] a joint resolution directing the Secretary of War to allot war trophies to the American Legion Museum.

Also,[2] a bill to provide four condemned 12-pounder bronze guns for the Grant Memorial Bridge at Point Pleasant, Ohio.

In 1920,[3] a bill to provide for the equitable distribution of captured war devices and trophies to the States and Territories of the United States and to the District of Columbia.

In 1908,[4] a bill to authorize the Secretary of War to furnish four condemned brass cannon and cannon balls to the Confederate Monument Association of Franklin, Tennessee.

1896. The use of Army transports and authorizations and regulations for the transportation of civilians thereon are subjects within the jurisdiction of the Committee on Military Affairs.

The Committee on Military Affairs reported:

In 1919,[5] a bill to authorize the transportation of civilians across the Atlantic Ocean upon army transports under such rules and regulations and at such rates as the Secretary of War may prescribe.

In 1910,[6] a joint resolution authorizing the use of United States Army transports for certain purposes.

1897. The control and disposition of nitrate and power plants at Muscle Shoals are subjects within the jurisdiction of the Committee on Military Affairs.

Bills providing for the lease or sale of nitrate plants and power stations on the Tennessee river at Sheffield, Alabama, or connected therewith, have been reported by the Committee on Military Affairs. Thus the committee has reported:

In 1922,[7] a bill to authorize and direct the Secretary of War to sell to Henry Ford certain nitrate plants a Muscle Shoals, and to lease to the corporation to be incorporated by him certain dams and power stations to be constructed in that connection.

In 1925,[8] a resolution relating to the Muscle Shoals property.

In 1927,[9] a report on sundry bills relating to the Muscle Shoals project.

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[1] First session Sixty-ninth Congress, Reports No. 590, No. 906.

[2] First session Sixty-ninth Congress, Report No. 180.

[3] Second session Sixty-sixth Congress, Report No. 979.

[4] First session Sixtieth Congress, Report No. 1046.

[5] Second session Sixty-sixth Congress, Report No. 528.

[6] Second session Sixty-first Congress, Report No. 756.

[7] First session Sixty-ninth Congress, Report No. 1084.

[8] Second session Sixty-eighth Congress, Report No. 1627.

[6] Second session Sixty-ninth Congress, Report No. 2303.

1898. Claims of Military personnel for loss of private property destroyed in the service, and bills for the relief of persons and organizations of persons who served in the Military forces of the United States have been considered by the Committee on Military Affairs.

The Committee on Military Affairs reported:

In 1920,[1] a bill providing for the settlement of claims of officers and enlisted men of the Army for the loss of private property destroyed in the military service of the United States.

In 1920,[2] a bill granting relief to persons who served in the military telegraph corps of the Army during the Civil War.

Also,[3] a bill for the relief of Rock of the Maine Post, No. 138, Veterans of Foreign Wars, composed of men who served in the Thirty-eighth Infantry.

In 1926,[4] a bill for the relief of certain officers of the Air Service of the United States Army on account of funds expended by them in connection with the American round-the-world flight.

1899. Joint operations of Army, Navy, and Marine Corps is a subject within the jurisdiction of the Committee on Military Affairs.

The Committee on Military Affairs reported, in 1911,[5] a bill providing for joint operations of the Army, Navy, and Marine Corps.

1900. The award of decorations, medals and other military insignia, and penalties for the unlawful wearing thereof are subjects within the jurisdiction of the Committee on Military Affairs.

The Committee on Military Affairs has exercised jurisdiction over proposed legislation relating to the conferring of insignia in recognition of valor and distinguished service in the Army and Navy. The Committee reported, in 1919,[6] a bill to provide for awarding decorations, devices, or insignia to the next of kin of deceased persons who would have been entitled to receive the same, and making it unlawful for anyone other than the persons authorized to do so to wear such decoration, device, or insignia.

1901. Appointments to boards and commissions having jurisdiction over institutions and affairs connected with the Military Service have been reported by the Committee on Military Affairs.

The Committee on Military Affairs reported:

In 1912,[7] the joint resolution authorizing the President to appoint a member of the New Jersey and New York Joint Harbor Line Commission.

In 1921,[8] a joint resolution for the appointment of one member of the Board of Managers of the National Home for Disabled Volunteer Soldiers.

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[1] Second session Sixty-sixth Congress, Report No. 611.

[2] Second session Sixty-sixth Congress, Report No. 824.

[3] Report No. 984.

[4] First session Sixty-ninth Congress, Report No. 1276.

[5] Second session Sixty-first Congress, Report No. 2244.

[6] Second session Sixty-second Congress, Report No. 442.

[7] Second session Sixty-second Congress, Report No. 1147.

[8] First session Sixty-seventh Congress, Report No. 456.

In 1926,[1] a bill providing for membership of a Board of Visitors to the United States Military Academy.

1902. Administration of the United States Military Academy, administration of foreign students thereto, and military education in civil institutions are subjects under the jurisdiction of the Committee on Military Affairs.

The Committee on Military Affairs reported:

In 1926,[2] a bill to establish a department of economics, government and history at the United States Military Academy at West Point.

In 1926,[3] 1919,[4] 1908,[5] joint resolutions authorizing the Secretary of War to receive for instruction at the United States Military Academy, at West Point, certain subjects of foreign countries and the insular possessions of the United States.

In 1926,[6] a bill to provide for the membership of the Board of Visitors to the United States Military Academy.

Also,[7] a bill providing for the promotion of a professor at the United States Military Academy.

On December 16, 1907,[8] on motion of Mr. Kittredge Haskins, by unanimous consent, the Committee on Education was discharged from the consideration of the bill (H.R. 384) to promote military education in the civil institutions of learning in the United States, and the bill was referred to the Committee on Military Affairs.

1903. Bills pertaining to Military Aviation and Army Aeronautics are reported by the Committee on Military Affairs.

The Committee on Military Affairs reported, in 1926,[9] a bill to encourage the development of aviation and secure advancement of Army aeronautics.

1904. Bills relating to battlefields and monuments thereon have been referred to the Committee on Military Affairs.

On January 24, 1930,[10] on motion of Mr. Robert Luce, of Massachusetts, chairman of the Committee on the Library, by unanimous consent, the bill (H.R. 5061) to provide for the erection of a monument to commemorate the Battle of Wilson Creek, Mo., was transferred from the Committee on the Library to the Committee on Military Affairs.

In submitting the request for a change of reference, Mr. Luce differentiated between the jurisdiction of the Committee on the Library over the subject of monuments in general and subjects relating to monuments on battlefields maintained by the War Department, and said:

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[1] First session Sixty-ninth Congress, Record, p. 417.
[2] First session Sixty-ninth Congress, Report No. 1023.
[3] First session Sixty-ninth Congress, Report No. 1372.
[4] First session Sixty-sixth Congress, Report No. 63.
[5] First session Sixtieth Congress, Report No. 1322.
[6] First session Sixty-ninth Congress, Report No. 417.
[7] First session Sixty-ninth Congress, Report No. 521.
[8] First session Sixtieth Congress, Record, p. 357.
[9] First session Sixty-ninth Congress, Report No. 1395.
[10] Second session Seventy-first Congress, Record p. 2320.

Mr. Speaker, before the request is put, I would like to have an opportunity to put into the Record about two sentences.

This bill has reference to a monument to commemorate the Battle of Wilson Creek, Mo.

Simply for the information of the House I wish to have it recorded that the Committee on Military Affairs has a subcommittee charged with the consideration of proposals relating to battlefields and monuments thereon. Generally, proposals relating to monuments come to the Committee on the Library, but this exception is made, probably in part, because battelfield monuments are to be maintained by the Secretary of War.

1905. A bill granting public lands for the establishment of a military park and cemetary was referred to the Committee on Military Affairs.

On March 27, 1930,[1] on motion of Mr. Ross A. Collins, of Mississippi, by unanimous consent, the bill (H.R. 9680) to amend an act granting certain lands to the city of Biloxi, in Harrison County, Miss., for park and cemetery purposes, was transferred from the Committee on Public Lands to the Committee on Military Affairs.

1906. Recent history of the Committee on Naval Affairs, section 13 of Rule XI.

Section 13 of Rule XI provides for the reference of subjects relating—

to the naval establishment, including increase or reduction of commissioned officers and enlisted men and their pay and allowances and the increase of ships or vessels of all classes of the Navy, to the Committee on Naval Affairs.

The form of this rule remained unchanged from 1885,[2] when the jurisdiction over naval appropriations was taken from the Committee on Appropriations and conferred on the Committee on Naval Affairs, to 1920,[3] when that jurisdiction was again vested in the Committee on Appropriations. Simultaneously with the latter change the phraseology including the increase or reduction of commissioned officers and enlisted men and their pay and allowances and the increase of ships or vessels of all classes of the Navy was added, bringing the rule to its present form.

The membership of the committee was increased in 1907,[4] from eighteen to nineteen by the adoption of Order No. 1 offered by Mr. John Dalzell, of Pennsylvania, and was further increased in 1911 [5] to twenty-one members in the adoption of the rules of the Sixty-second Congress. It was increased to twenty-five members, its present membership, in 1933.[6]

1907. Bills relating to naval aviation and marine aeronautics are reported by the Committee on Naval Affairs.

Bills providing for establishment or abolition of bureaus in departments are reported by the committee having jurisdiction of the subjects with which the proposed bureau would deal.

The Committee on Naval Affairs reported:

In 1926,[7] a bill to authorize the construction and procurement of aircraft and aircraft equipment in the Navy and Marine Corps, and to adjust and define the status of the operating personnel in connection therewith.

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[1] Second session Seventy-first Congress, Record, p. 6185.

[2] First session Forty-ninth Congress, Record, pp. 168, 96, 278.

[3] Second session Sixty-sixth Congress, Record, p. 8121.

[4] First session Sixtieth Congress, Record, p. 356.

[5] First session Sixty-second Congress, Record, pp. 11, 80.

[6] First session Seventy-third Congress, Record, p. 6371.

[7] First session Sixty-ninth Congress, Report No. 389.

In 1926,[1] a bill to encourage the development of aviation and secure advancement of Navy Aeronautics.

In 1920[2] and 1921,[3] bills to create a bureau of aeronautics in the Department of the Navy of the United States.

In 1910,[4] a bill to abolish the Bureau of Equipment in the Department of the Navy.

In 1921,[5] a bill authorizing the construction of an airplane carrier for the Navy of the United States.

1908. The acquisition or alienation of realty for naval sites and the establishment, construction, improvement, or dismantling of naval facilities thereon are within the jurisdiction of the Committee on Naval Affairs.

The Committee on Naval Affairs reported:

In 1926,[6] a bill to authorize the disposition of lands no longer needed for naval purposes.

In 1926,[7] authorizing an appropriation for the repair of roads, water systems, and buildings in American Samoa.

In 1926,[8] bills to authorize the construction of necessary additional buildings at certain naval hospitals, and certain public works at the naval air station at Pensacola.

1909. Bills authorizing the receipt by naval personnel of decorations, orders, medals, and other insignia and the acceptance of offices with compensation and emoluments from foreign governments have been reported by the Committee on Naval Affairs.[9]

Authorization of acceptance by officers and sailors of the United States Navy of offices and salaries in foreign countries and awards and decorations conferred by foreign governments in recognition of distinguished service, are subjects which have been reported by the Committee on Naval Affairs.

The Committee reported:

In 1927,[10] various bills authorizing the acceptance by personnel of the United States Navy of medals, insignia, decorations, brevets, diplomas, orders, and other awards of honor and merit tendered by the French Government, the Republic of Haiti, the Kingdom of Denmark, the Government of Greece, the Republic of China, the Republic of Chile, and other foreign governments in recognition of distinguished service.

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[1] First session Sixty-ninth Congress, Report No. 1396.

[2] Second session Sixty-sixth Congress, Report No. 1073.

[3] First session Sixty-seventh Congress, Report No. 35.

[4] Second session Sixty-first Congress, Record, p. 894.

[5] First session Sixty-seventh Congress, Report No. 100.

[6] First session Sixty-ninth Congress, Report No. 576.

[7] First session Sixty-ninth Congress, Report No. 203.

[8] Report No. 679, 1052.

[9] Since these bills are private in character, the reporting of such bills does not necessarily confer jurisdiction on the committee to report them. This subject has generally been considered by the Committee on Foreign Affairs.

[10] Second session Sixty-ninth Congress, Report Nos. 1925, 1926, 1929, 1930, 1931, 1932, 1933, 1934.

In 1920,[1] a bill to authorize officers of the naval service to accept offices with compensation and emoluments from the governments of the Republics of South America.

1910. The Committee on Naval Affairs has exercised limited jurisdiction over bills relating to the Coast and Geodetic Survey.[2]

On January 19, 1924,[3] the Speaker[4] called attention to the reference of the bill (H. R. 4530) to increase the efficiency of the Coast and Geodetic Survey, and asked unanimous consent that the Committee on Interstate and Foreign Commerce, to which it had been erroneously referred, be discharged from its further consideration. There was no objection and the bill was referred to the Committee on Naval Affairs.

1911. Proposed legislation affecting the Coast Guard, the Marine Corps, the Marine Band, and the Fleet Marine Corps Reserve, is within the jurisdiction of the Committee on Naval Affairs.

The Committee on Naval Affairs reported:

In 1908,[5] a bill to increase further the efficiency of the United States Marine Corps.

In 1920,[6] a bill to increase the efficiency of the Navy and Coast Guard through the temporary provision of bonuses or increased compensation.

In 1926,[7] a bill providing for retirement of members of the United States Marine Band and of members transferred to the Fleet Marine Corps Reserve.

In 1927,[8] a bill for the promotion and retirement of the leader of the United States Marine Band.

1912. Bills authorizing the payment of claims for losses of private property incident to service in the Navy have been reported by the Committee on Naval Affairs.

The Committee on Naval Affairs reported in 1926,[9] a bill for the relief of Navy personnel and civilian employees of the Navy who suffered loss of personal effects due to the earthquake and fire in Japan in September, 1923.

1913. Bills relating to the Naval Observatory are within the jurisdiction of the Committee on Naval Affairs.

The Committee on Naval Affairs reported, in 1910,[10] a bill to establish a naval observatory and define its duties.

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[1] Second session Sixty-sixth Congress, Report No. 1071.

[2] Such legislation has occasionally been referred to the Committee on Military Affairs.

[3] First session Sixty-eighth Congress, Record, p. 1157.

[4] Frederick H. Gillet, of Massachusetts, Speaker.

[5] First session Sixtieth Congress, Report No. 1299.

[6] Second session Sixty-sixth Congress, Record, p. 666.

[7] First session Sixty-ninth Congress, Report No. 585.

[8] Second session Sixty-ninth Congress, Report No. 1298.

[9] First session Sixty-ninth Congress, Report No. 1515.

[10] Second session Sixty-first Congress, H. Rept. No. 681.

1914. Recent history of the Committee on Post Offices and Post Roads, section 14 of Rule XI.

Section 14 of Rule XI provides for the reference of subjects relating—to the post office and post roads—to the Committee on the Post Office and Post Roads.

The jurisdiction of this committee was modified in 1885[1] by the addition of authority over appropriations and again in 1920[2] by revocation of that authority.

With the exception of the amendment of 1920,[3] withdrawing the right of appropriation, the present rule retains the form in which it was adopted in the revision of 1880.[4]

The membership of the committee was increased by the addition of three members in 1911,[5] and four additional members in, 1933,[6] and now consists of twenty-five Members and one Delegate.

1915. The Committee on the Post Office and Post Roads exercises jurisdiction over proposed legislation relating to the carrying of mails both foreign and domestic, including Rural Free Delivery and the Air Mail Service, and over the Postal Savings System.

On January 6, 1908,[7] the resolution (H. Res. 43) distributing the President's annual message provided that so much of the message as related to the post office and post roads and to the carrying of foreign mails should be referred to the Committee on the Post Office and Post Roads.

The Committee on the Post Office and Post Roads reported:

In 1926,[8] bills providing for aircraft mail contracts and authorizing compensation for the carriage of foreign mails.

In 1923,[9] bills providing for air mail service, and for payment for construction of hangars and maintenance of flying fields for the air mail service, and for rural free delivery routes.

In 1921,[10] a bill relative to the Postal savings system.

1916. The acquisition, lease, or transfer of realty or other facilities for post office purposes are subjects within the jurisdiction of the Committee on the Post Office and Post Roads.

The Committee on the Post Office and Post Roads reported:

In 1927,[11] a bill specifying steel cars for railway post-office service.

In 1920,[12] a bill authorizing the Secretary of War to turn over to the Postmaster General without charge therefor certain buildings in Watertown, New York.

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[1] First session Forty-ninth Congress, Record, pp. 168, 196, 278.

[2] Second session Sixty-sixth Congress, Record, p. 8121.

[3] Second session Sixty-sixth Congress, Record, p. 8121.

[4] Second session Forty-sixth Congress, Record, p. 205.

[5] First session Sixty-second Congress, Record, pp. 11, 80.

[6] First session Seventy-third Congress, Record, p. 6371.

[7] First session Sixtieth Congress, Record, pp. 477, 510.

[8] First session Sixty-ninth Congress, Reports Nos. 1197, 1305.

[9] Fourth session Sixty-seventh Congress, Reports Nos. 1421, 1714, 1472.

[10] First session Sixty-seventh Congress, Report No. 489.

[11] Second session Sixty-ninth Congress, Report No. 1904.

[12] Second session Sixty-sixth Congress, Report No. 827.

In 1926,[1] bills authorizing the rental of quarters for postal purposes, and providing for monthly rental of terminal railway post-office premises.

1917. While bills relating to individual claims of postmasters for reimbursement for unavoidable losses belong to the jurisdiction of the Committee on Claims, general legislation providing for disposition of such claims has been reported by the Committee on the Post Office and Post Roads.

The Committee on the Post Office and Post Roads reported in 1914,[2] a bill amending the law governing disposition of claims of postmasters for unavoidable losses in connection with their official duties.

1918. Exclusion from the mails of dangerous, fraudulent, gambling, or otherwise objectionable commodities, devices, or paraphernalia is a subject within the jurisdiction of the Committee on the Post Office and Post Roads.

In 1926,[3] the Committee on the Post Office and Post Roads reported a bill declaring pistols, revolvers, and other firearms capable of being concealed on the person unmailable and providing penalty.

Also,[4] a bill excluding fraudulent devices and lottery paraphernalia from the mails.

In 1924,[5] a bill denying the use of the mails in transporting firearms.

1919. The Committee on the Post Office and Post Roads has jurisdiction over subjects relating to Government control of telephones in the District of Columbia.

On February 28, 1918,[6] Mr. John A. Moon, of Tennessee, by direction of the Committee on the Post Office and Post Roads, moved to change the reference of the bill (H. R. 10239) authorizing the Post Office Department to acquire and extend the telephone system of the District of Columbia; to insure the Government complete control of such means of communication in safeguarding its military and executive affairs within the seat of government; and to promote the service to the public from the Committee on the District of Columbia to the Committee on the Post Office and Post Roads.

After extended debate, the question being put was decided in affirmative, yeas 149, nays 102, and the bill was transferred to the Committee on the Post Office and Post Roads.

1920. Provisions for assessment and remission of punishments and penalties in connection with crimes and offenses against the mail service have been reported by the Committee on the Post Office and Post Roads.

In 1923,[7] the Committee on the Post Office and Post Roads reported a bill providing for punishment of assaults upon mail carriers.

In 1926,[8] a bill providing for remission of fines imposed upon mail contractors.

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[1] First session Sixty-ninth Congress, Reports Nos. 1127, 901.

[2] Second session Sixty-third Congress, Report No. 116.

[3] First session Sixty-ninth Congress, Report No. 610.

[4] Report No. 560.

[5] First session Sixty-eighth Congress, Record, p. 762.

[6] Second session Sixty-fifth Congress, Record, p. 2807.

[7] Fourth session Sixty-seventh Congress, Report No. 1332.

[8] First session Sixty-ninth Congress, Report No. 535.

1921. By decision of the House, bills to increase the efficiency of the postal service through the retirement of superannuated employees were referred to the Committee on the Post Office and Post Roads.

On May 26, 1916,[1] on motion of Mr. Samuel W. Beakes, of Michigan, the House, on division, yeas 177, nays 112, changed the reference of the bill (H. R. 6915) granting indefinite leave of absence to superannuated employees of the Post Office Department, Postal Service, and the bill (H. R. 10130) to retire postal employees on an annuity after 25 years service, from the Committee on Reform in the Civil Service to the Committee on the Post Office and Post Roads.

During debate on the question, Mr. Martin B. Madden, of Illinois, said:

Mr. Speaker, the Post Office Committee of the House of Representatives is organized for the purpose of taking jurisdiction of post-office matters. It is given jurisdiction over the Railway Mail Service, the Foreign Mail Service, the postal savings bank, and all matters pertaining to post-office service, and anything that pertains to greater efficiency in the service I maintain comes within the jurisdiction of the committee. Frequently the committee has reported legislation to the House to do first one thing and then another with the end in view of creating a greater efficiency in the department. One piece of legislation reported by this committee and enacted by Congress was the classification act, by means of which the men in the service were given the right of promotion from grade to grade automatically from one year to another, which created an expense in connection with the conduct of the department. Nobody will contend that it did not also create greater efficiency in the department.

Not long since the committee had referred to it a bill providing for the enactment of a law to pay compensation for injury to men in the service while on duty. The committee took jurisdiction of that and reported the bill. Under that law a man in the Postal Service now injured in the line of duty is entitled to full pay for one year's disability and half pay for the second year, and the family receives $2,000 in case of death, if it is the result of the injury. I might enumerate many other salutary recommendations for the improvement of the department ratified by the Congress.

Nobody will claim that in the conduct of the great Postal Service of the United States the committee having jurisdiction over postal affairs has no right to recommend improvements in the service. Not long since bills were introduced and referred to the Post Office Committee providing for superannuation of men grown old in the service. What was the purpose of that? Only one, and that purpose was to retire men who had grown old in the service in order that young men might take their places and greater efficiency result from the enactment of the law.

The bill was under consideration by the committee. The question of order was raised as to the jurisdiction of the committee by the gentleman from Indiana, and a majority of the Committee on the Post Office and Post Roads overruled the question of order raised by him.

Subsequently,[2] the bill (H. R. 6915) was reported favorably by the Committee on the Post Office and Post Roads, and was referred to the Committee of the Whole House on the state of the Union.

1922. Bills relating to the classification of salaries of postal employees are within the jurisdiction of the Committee on the Post Office and Post Roads.

On May 3, 1924,[3] a bill reclassifying the salaries of postmasters and employees of the Postal Service and readjusting their compensation on an equitable basis, was reported by the Committee on the Post Office and Post Roads.

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[1] First session Sixty-sixth Congress, Record, pp. 8456, 8479, 8514, 8747, 8748.

[2] Report No. 907.

[3] First session Sixty-eighth Congress, Report No. 655.

1923. Recent history of the Committee on the Public Lands, section 15 of Rule XI.

Section 15 of Rule XI provides for the reference of subjects relating to the lands of the United States and private claims to land to the Committee on the Public Lands.

This rule was amended in 1911,[1] by enlarging the jurisdiction of the Committee to include "private claims to land," the Committee on Private Land Claims[2] which had previously exercised this jurisdiction being simultaneously abolished.[3] This was the first modification of the rule since the revision of 1880.[4]

The membership of the committee was increased by the addition of three Members in 1905,[5] one Member in 1907,[6] and two Members in 1911, and is now composed of twenty-one Members and one Delegate.

1924. The public domain, conservation thereof, and the granting or forfeiture of lands therefrom, or easements thereon, are subjects within the jurisdiction of the Committee on the Public Lands.

On January 6, 1908,[7] the resolution distributing the annual message of the President referred so much of the message as related to "the public domain" to the Committee on the Public Lands.

On January 13, 1914,[8] the resolution (H. Res. 340) providing for reference of the President's message referred to the Committee on the Public Lands that portion of the message relating to "conservation."

The Committee on the Public Lands has exercised jurisdiction over bills granting and rescinding grants of lands and easements and controlling waters on public lands, and has reported as follows:

In 1926,[9] bills relating to the entry and conveyance of public lands.

In 1911,[10] a joint resolution authorizing suit for forfeiture of right of way granted to the Washington Improvement and Development Company through the Colville Indian Reservation in the State of Washington.

Also,[11] a resolution requesting information from the Secretary of the Interior and the Secretary of Agriculture concerning the diversion of the waters of Lake Tahoe.

In 1910,[12] a bill granting a street railway company right to operate its railway across the Hot Springs Reservation.

In 1920,[13] a bill granting the right to use certain waters in Yellowstone National Park for irrigation purposes.

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[1] First session Sixty-second Congress, Record, pp. 12, 80.

[2] Hinds' Precedents, IV, 4273.

[3] Record, pp. 13, 80.

[4] Second session Forty-sixth Congress, Record, p. 205.

[5] First session Sixtieth Congress, Record, p. 356.

[6] First session Sixty-second Congress, Record, pp. 11, 80.

[7] First session Sixtieth Congress, Record, pp. 477, 510.

[8] Second session Sixty-third Congress, Record, p. 1582.

[9] First session Sixty-ninth Congress, Reports No. 144, 178.

[10] First session Sixty-second Congress, Report No. 122.

[11] Second session Sixty-second Congress, Report No. 196.

[12] Second session Sixty first Congress, Report No. 435.

[13] Second session Sixty-sixth Congress, Report No. 767.

1925. The Committee on the Public Lands has jurisdiction over subjects relating to those national parks created out of the public domain.

The Committee on the Public Lands reported in 1910,[1] and 1917,[2] bills providing for the establishment of the Glacier National Park in the Rocky Mountains, and a national park in the Territory of Alaska.

In 1920,[3] a bill to change the name of the Sequoia National Park to Roosevelt National Park.

On December 14, 1915,[4] on motion of Mr. Asbury F. Lever, of South Carolina, by unanimous consent, the Committee on Agriculture was discharged from the consideration of the bill (H. R. 68) to establish a national park in the Territory of Hawaii, and the bill was referred to the Committee on the Public Lands.

1926. The Committee on the Public Lands has exercised jurisdiction over subjects relating to mineral lands of the public domain and the entry of such lands for homestead and agricultural purposes.

The Committee on the Public Lands has exercised a general but not exclusive jurisdiction over the public lands with relation to their mineral deposits. The Committee reported:

In 1921,[5] a bill to provide for the disposition of boron deposits on public lands.

Also,[6] a bill authorizing the lease of lands containing deposits of minerals, oil, oil-shale, or gas by the State of Washington for longer periods than five years.

Also,[7] bills providing for agricultural entries on coal lands in Alaska.

In 1917,[8] the bill to relieve the owners of mining claims who have been mustered into the service of the United States from performing assessment work during the term of such service.

On April 28, 1921,[9] on motion of Mr. Nicholas J. Sinnott, of Oregon, by unanimous consent, the reference of the bill (H. R. 3116) validating certain homestead entries for certain public lands in Alaska was transferred from the Committee on the Territories to the Committee on the Public Lands.

1927. The Committee on the Public Lands exercises jurisdiction as to such forest reserves as are created out of the public domain.

On March 13, 1914,[10] on motion of Mr. Asbury F. Lever, of South Carolina, Chairman of the Committee on Agriculture, the bill (S. 533) proposing the consolidation of certain lands belonging to the public domain in the Ochoco National Forest was taken from the Committee on Agriculture and referred to the Committee on the Public Lands.

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[1] Second session Sixty-first Congress, Report No. 767.

[2] Second session Sixty-fourth Congress, Report No. 1273.

[3] Second session Sixty-sixth Congress, Report No. 764.

[4] First session Sixty-fourth Congress, Record, P. 245.

[5] Third session Sixty-sixth Congress, Report No. 1247.

[6] Report No. 1259.

[7] First session Sixty-seventh Congress, Reports No. 432, 444.

[8] Second session Sixty-fourth Congress, Report No. 1276.

[9] First session Sixty-sixth Congress, Record, p. 754.

[10] Second session Sixty third Congress, Record, p. 4319.

On December 19, 1919,[1] Mr. Nicholas J. Sinnott, of Oregon, called attention to the erroneous reference of the bill (S. 2789) for the consolidation of forest lands in the Sierra National Forest to the Committee on Agriculture, and asked unanimous consent that the reference be changed to the Committee on the Public Lands. After brief debate the request was agreed to and the bill was referred to the Committee on the Public Lands.

The Committee on the Public Lands reported, in 1922,[2] the bill (S. 490) to consolidate national forest lands.

1928. Subjects pertaining to the school lands of a State or Territory have been held to be within the jurisdiction of the Committee on the Public Lands.

On February 5, 1908,[3] the Speaker,[4] by unanimous consent, took from the Committee on Agriculture, to which it had been first referred, the bill (H. R. 9205) making applicable certain provisions of the statutes of the Territory of New Mexico to the school lands of that Territory, and referred it to the Committee on the Public Lands.

1929. Bills authorizing punishments and penalties when provided for offenses relating to the administration of the lands of the public domain have been reported by the Committee on the Public Lands.

The Committee on the Public Lands reported in 1917,[5] the bill (H. R. 15523) to punish persons who make false representations to settlers and other pertaining to the public lands of the United States.

1930. Bills providing for the appraisal, sale, lease, and conveyance of public lands and for the disposition of such lands when abandoned are within the jurisdiction of the Committee on the Public Lands.

The Committee on the Public Lands reported:

In 1926,[6] a bill providing for the granting of public lands for school purposes, and for the sale of lots owned by the Government in the District of Columbia.

In 1921,[7] a bill for the appraisal and sale of the Vashon Island Military Reservation in the State of Washington.

In 1921,[8] a bill providing for the disposition of abandoned lighthouse and lifesaving stations.

In 1920,[9] a bill providing for the disposition of abandoned portions of rights of way granted to railroad companies.

On July 31, 1919,[10] on motion of Mr. John E. Raker, of California, by unanimous consent, the bill (H. R. 416) returning to the public domain land formerly

[1] Second session Sixty-sixth Congress, Record, p. 914.
[2] Second session Sixty-seventh Congress, Report No. 748.
[3] First session Sixtieth Congress, Record, p. 1656.
[4] Joseph G. Cannon, of Illinois, Speaker.
[5] Second session Sixty-fourth Congress, Record, p. 1239.
[6] First session Sixty-ninth Congress, Reports No. 509, 678, 125, 1220.
[7] Third session Sixty-sixth Congress, Report No. 1233.
[8] First session Sixty-seventh Congress, Report No. 192.
[9] Second session Sixty-sixth Congress, Report No. 851.
[10] First session Sixty-sixth Congress, Record, p. 3430.

reserved as a bird reservation was taken from the Committee on Agriculture and given to the Committee on the Public Lands.

On March 28, 1916,[1] upon suggestion of the Speaker,[2] by unanimous consent, the reference of the bill (S. 43) relating to lands formerly part of an Indian reservation, was transferred from the Committee on Indian Affairs to the Committee on the Public Lands.

On February 12, 1916,[3] on motion of Mr. Whitmell P. Martin, of Louisiana, by unanimous consent, the Committee on Naval Affairs was discharged from the consideration of the bill (H. R. 9045) for the restoration to the public domain of lands reserved for naval operation and not now needed for that purpose, and the bill was referred to the Committee on the Public Lands.

On July 17, 1914,[4] the Speaker[2] announced that the bill (S. 655) authorizing the Secretary of the Interior to survey lands formerly reserved as a part of the Assiniboine Military Reservation but now abandoned for that purpose, and which had been referred to the Committee on Military Affairs, should have been referred to the Committee on the Public Lands and if there was no objection he would change the reference of the bill to the latter committee. There being no objection the bill was thereupon referred to the Committee on the Public Lands.

On January 25, 1924,[5] upon suggestion of the Speaker,[6] by unanimous consent, the bill (H. R. 4319) authorizing the conveyance of certain public land to a municipality for park purposes, which had been referred to the Committee on Public Buildings and Grounds, was taken from that committee and referred to the Committee on the Public Lands.

1931. Legislative propositions relating to the care of waters on arid public lands belong to the jurisdiction of the Committee on the Public Lands and not the Committee on Irrigation and Reclamation.

On December 18, 1912,[7] at the instance of the Speaker,[2] by unanimous consent, the Committee on Irrigation of Arid Lands, now designated as the Committee on Irrigation and Reclamation, was discharged from consideration of the bill (H. R. 12826) providing for the discovery, development, and protection of streams, springs, and water holes in desert or arid public lands of the United States, and the bill was referred to the Committee on the Public Lands.

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[1] First session Sixty-fourth Congress, Record, p. 5053.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixty-fourth Congress, Record, p. 2456.

[4] Second session Sixty-third Congress, Record, p. 12303.

[5] First session Sixty-eighth Congress, Record, p. 1432.

[6] Frederick H. Gillett, of Massachusetts, Speaker.

[7] Third session Sixty-second Congress, Record, p. 861.

1932. Legislation providing for the application of mining laws to public lands, the location of mineral claims on such lands, and the exploration and acquisition of mines on land claims is considered by the Committee on the Public Lands rather than the Committee on Mines and Mining.

On February 24, 1908,[1] on suggestion of the Speaker,[2] by unanimous consent, the bills (S. 206) to extend the provisions of the mining laws of the United States to certain public lands; (S. 129) to validate the location of mineral claims heretofore made by deputy mineral surveyors during their incumbency in office; and (H. R. 15443) to authorize the exploration and purchase of mines within the boundaries of private land claims, were taken from the Committee on Mines and Mining to which they had been referred and were referred to the Committee on the Public Lands.

1933. Recent history of the Committee on Indian Affairs. Section 16 of Rule XI.

Section 16 of Rule XI provides for the reference of subjects relating—

to the relations of the United States with the Indians and the Indian tribes, to the Committee on Indian Affairs.

This rule retained the form adopted in 1885[3] until 1920[4] when jurisdiction of appropriations was transferred to the Committee on Appropriations.

The membership of the committee was increased from eighteen Members to nineteen Members in 1907,[5] by the adoption of Order No. 1 offered by Mr. John Dalzell, of Pennsylvania, and from nineteen Members to twenty-one Members, on motion of Mr. Oscar W. Underwood, of Alabama, by unanimous consent, in 1913.[6]

The committee is now composed of twenty-one Members and one Delegate.

1934. General and special bills as to claims to be paid out of Indian funds and the adjudication of claims arising out of Indian depredations come within the jurisdiction of the Committee on Indian Affairs and not the Committee on Claims.

On February 17, 1910,[7] the Speaker[2] announced that the Committee on Claims had returned for proper reference three bills, evidently referred to that committee erroneously, providing for the adjudication and payment of claims arising from Indian depredations and further providing that any judgments obtained should be paid out of the Indian fund. Thereupon, by unanimous consent, the bills were re-referred to the Committee on Indian Affairs.

On February 4, 1911,[8] on motion of Mr. Albert S. Burleson, of Texas, acting by direction of the Committee on Claims, that committee was discharged from the consideration of the bill (H. R. 20825) to amend an act providing for the adjudica-

[1] First session Sixtieth Congress, Record, p. 2415.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] First session Sixty-ninth Congress, Record, pp. 168, 196, 278.

[4] Second session Sixty-sixth Congress, Record, p. 8121.

[5] First session Sixtieth Congress, Record, p. 356.

[6] First session Sixty-third Congress, Record, p. 1784.

[7] Second session Sixty-first Congress, Record, p. 2057.

[8] Third session Sixty-first Congress, Record, p. 1965.

tion of claims arising out of Indian depredations, and the bill was referred to the Committee on Indian Affairs.

1935. Bills relating to the adjudication of claims of Indiana and Indian tribes against the United States come within the jurisdiction of the Committee on Indian Affairs.

On January 13, 1910,[1] and again on February 18, 1910,[2] upon suggestion of the Speaker,[3] by unanimous consent, bills authorizing Indian tribes to submit to the Court of Claims, various claims against the United States, were taken from the Committee on Claims and referred to the Committee on Indian Affairs.

The Committee on Indian Affairs reported:

In 1923,[4] a bill authorizing Indian tribes and individual Indians to submit to the Court of Claims certain claims growing out of treaties and otherwise.

In 1926[5] and 1920[6] bills authorizing the court of Claims to hear, determine, and render judgment on the claims of certain Indian tribes and bands against the United States.

1936. The reservation, alienation, transfer, leasing, or allotment of Indian lands are subjects within the jurisdiction of the Committee on Indian Affairs.

The Committee on Indian Affairs reported:

In 1926[7] a bill setting aside Rice Lake and contiguous lands in Minnesota for the exclusive use and benefit of the Chippewa Indians of Minnesota.

Also,[8] a bill to authorize the leasing for mining purposes of land reserved for Indian agency and school purposes.

Also,[9] a bill to provide for allotting in severalty agricultural lands within the Tongue River or Northern Cheyenne Indian Reservation in Montana.

Also,[10] a bill to authorize the leasing of unallotted irrigable land on Indian reservations.

On February 24, 1908,[11] on motion of Mr. James S. Sherman, or New York, by unanimous consent, the Committee on Public Lands was discharged from the consideration of the bill (S. 3409) providing regulations pertaining to homestead entries on Indian lands, and the bill was referred to the Committee on Indian Affairs.

On March 28, 1908,[12] on suggestion of the Speaker,[3] by unanimous consent, the bill (H.R. 4916) authorizing the issuance of a patent in fee for certain Indian lands

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[1] Second session Sixty-first Congress, Record, p. 617.
[2] Second session Sixty-first Congress, Record, p. 2113.
[3] Joseph G. Cannon, of Illinois, Speaker.
[4] Fourth session Sixty-seventh Congress, Report No. 1705.
[5] First session Sixty-ninth Congress, Report No. 869.
[6] Second session Sixty-sixth Congress, Reports No. 581, 899.
[7] First session Sixty-ninth Congress, Report No. 1417.
[8] Report No. 140.
[9] Report No. 383.
[10] Report No. 1509.
[11] First session Sixtieth Congress, Record, p. 2393.
[12] Record, p. 4085.

situated in the State of Idaho was taken from the Committee on Public Lands and given to the Committee on Indian Affairs.

1937. The taxation, improvement, irrigation, and control of Indian lands and the construction of roads, cutting of timber, and granting of easements thereon are subjects within the jurisdiction of Committee on Indian Affairs.

On February 9, 1914,[1] on motion of Mr. William J. LaFollette, of Washington, the Committee on Irrigation and Reclamation of Arid Lands was discharged from consideration of the bill (H.R. 11622) to provide water for the irrigable lands of the Yakima Indian Reservation, and the same was referred to the Committee on Indian Affairs.

The Committee on Indian Affairs reported:

In 1926,[2] bills for the completion of a road from Tucson to Ajo via Indian Oasis, and for the construction of an irrigation dam on Walker River, Nevada.

In 1916,[3] a bill providing for the taxation of lands of the Winnebago Indians and the Omaha Indians in the State of Nebraska.

In 1908,[4] a bill to authorize the cutting, sale, and manufacture of lumber and the preservation of forests on certain lands reserved for Indian reservations.

1938. Bills relating to the use, control, management, and expenditure of Indian funds are within the jurisdiction of the Committee on Indian Affairs.

The Committee on Indian Affairs reported:

In 1926,[5] a bill authorizing the use of the funds of any tribe of Indians for payments of insurance premiums for protection of the property of the tribe against fire, theft, tornado, and hail.

In 1925,[6] a bill to provide for expenditures of tribal funds of Indians for construction, repair, and rental of agency buildings and related purposes.

In 1923,[7] a bill to modify the Osage fund restrictions.

In 1919,[8] a bill to provide for the distribution of tribal funds of the Crow tribe, and for other purposes.

1939. The Committee on Indian Affairs has jurisdiction of subjects relating to education of the Indians.

The Committee on Indian Affairs reported:

In 1926,[9] a bill authorizing the payment of tuition of Crow Indian children attending Montana State public schools.

In 1925,[10] bills relative to the per capita cost of Indian Schools.

[1] Second session Sixty-third Congress, Record, p. 3223.

[2] First session Sixty-ninth Congress, Reports Nos. 1153, 1437.

[3] First session Sixty-fourth Congress, Report No. 994.

[4] First session Sixtieth Congress, Report No. 1086.

[5] First session Sixty-ninth Congress, Report No. 511.

[6] Second session Sixty-eighth Congress, Report No. 1215.

[7] Fourth session Sixty-seventh Congress, Report No. 1403.

[8] First session Sixty-sixth Congress, Report No. 468.

[9] First session Sixty-ninth Congress, Report No. 159.

[10] First session Sixty-eighth Congress, Reports Nos. 1319, 1393.

1940. Bills pertaining to the business and government of the Indian tribes are properly referred to the Committee on Indian Affairs unless carrying appropriations, in which event they are properly within the jurisdiction of the Committee on Appropriations.

On February 6, 1929,[1] on motion of Mr. Louis C. Cramton, of Michigan, by unanimous consent, the bill (S. 4517) appropriating tribal funds of Indians residing on the Klamath Reservation to pay expenses of the general council and business committee of the tribe was transferred from the Committee on Appropriations to the Committee on Indian Affairs.

Mr. Cramton explained that the original reference to the Committee on Appropriations was properly made because inadvertently a direct appropriation was incorporated in the bill. But as the bill related to legislative propositions which were outside the jurisdiction of the Committee on Appropriations, and pertained otherwise to matters within the jurisdiction of the Committee on Indian Affairs, the request for the change of reference was made by common consent of both committees.

1941. Recent history of the Committee on the Territories, Section 17 of Rule XI.

An instance in which the membership of a standing committee was temporarily increased.

Section 17 of Rule XI provides for the reference of subjects relatin—

> to Territorial legislation, the revision thereof, and affecting Territories or the admission of States to the Committee on the Territories.

The phraseology of this rule has remained unchanged since the revision of 1880,[2] when the present form was adopted.

On June 3, 1913,[3] on motion of Mr. James R. Mann, of Illinois, the membership of this committee was temporarily increased by the addition of one member without changing the rule fixing the number of the members of the committee. The additional member was discontinued with the close of the Congress in which appointed, but in 1918[4] the membership of the committee was permanently increased to seventeen through amendment of the rule by adoption of a resolution offered by Mr. Claude Kitchin, of North Carolina. It was further increased by the addition of four members, in 1927,[5] in the adoption of the rules for the Seventieth Congress, and now consists of twenty-one Members and two Delegates.

1942. The Committee on the Territories has jurisdiction of legislation relating to the general affairs of the Territories.

Resolutions distributing the annual message of the President in the 1908,[6] and in 1914,[7] providing that so much of the message as related to Territorial legislation and

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[1] Second session, Seventieth Congress, Record, p. 2936.
[2] Second session Forty-sixth Congress, Record, p. 205.
[3] First session Sixty-third Congress, Record, p. 1871.
[4] Second session Sixty-fifth Congress, Record, p. 852.
[5] First session Seventieth Congress, Record, p. 11.
[6] First session Sixtieth Congress, Record, pp. 477, 510.
[7] Second session Sixty-third Congress, Record, p. 1592.

the revision thereof, and to Alaska and the Hawaiian Islands should be referred to the Committee on the Territories.

The Committee on Territories reported in 1908,[1] bills authorizing the issuance of bonds by municipalities and road districts for the construction of roads, and the installation of water and sewer systems in the Territory of Arizona.

In 1920,[2] a bill authorizing an incorporated town in Alaska to issue bonds for the construction of a municipal light and power plant and the erection of a public school building.

1943. The Committee on the Territories has jurisdiction of general subjects relating to the Territory of Alaska.

The Committee on the Territories has exercised a general jurisdiction over subjects relating to Alaska both before and since the creation of the Territorial government for that region, and reported:

In 1926,[3] bill prescribing qualification of voters in the Territory, authorizing the designation of an ex officio commissioner for Alaska for each of the executive departments of the United States, and relating to the election of a Delegate to the House of Representatives from the Territory of Alaska.

In 1926,[4] 1919,[5] 1910,[6] and 1908,[7] bills relating to the location, construction, operation, and relief of Alaskan railways.

In 1926,[8] a joint resolution authorizing the construction of government docks, and wharves at Alaskan ports.

In 1924,[9] a bill for the establishment of industrial schools for Alaskan native children.

In 1922,[10] a joint resolution authorizing the construction of roads, bridges, and trails in Alaska.

In 1908,[11] a bill for the protection of game in Alaska.

On May 24, 1910,[12] Mr. Edward L. Hamilton, of Michigan, by direction of the Committee on the Territories, offered a motion to change the reference of the bill (H. R. 26153) to modify and amend the mining laws in relation to the Territory of Alaska from the Committee on Public Lands to the Committee on the Territories.

Thereupon, Mr. Albert Douglas, of Ohio, moved by way of amendment that the bill be referred to the Committee on Mines and Mining.

The amendment being declared out of order, and the question being put on the original motion, it was decided in favor of the affirmative, and the bill was referred to the Committee on the Territories.

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[1] First session Sixtieth Congress, Reports Nos. 324, 1406.
[2] Second session Sixty-sixth Congress, Report No. 1913.
[3] First session Sixty-ninth Congress, Reports Nos. 728, 1565, 174.
[4] First session Sixty-ninth Congress, Report No. 225.
[5] First session Sixty-sixth Congress, Report No. 231.
[6] Second session Sixty-first Congress, Report No. 951.
[7] First session Sixtieth Congress, Report No. 1145.
[8] First session Sixty-ninth Congress, Report No. 586.
[9] First session Sixty-eighth Congress, Report No. 528.
[10] Second session Sixty-seventh Congress, Report No. 783.
[11] First session Sixtieth Congress, Report No. 440.
[12] Second session Sixty-first Congress, Record, p. 6797.

In 1910,[1] a bill relating to the creation, establishment, and enforcement of a miner's lien in the Territory of Alaska was reported by the Committee on the Territories.

1944. The Committee on the Territories has general jurisdiction of subjects relating to the Territory of Hawaii.

The Committee on the Territories reported on legislation relating to the government of Hawaii as follows:

In 1992,[2] and 1908,[3] bills to amend the organic act of the Territory of Hawaii and confirming acts of the Hawaiian legislature.

The committee also exercises exclusive jurisdiction over bills relating to the disposition of Government-owned land in Alaska. Thus the committee reported:

In 1926,[4] and 1919,[5] bills providing for the exchange of Government-owned lands for privately owned lands in the Territory of Hawaii.

In 1924,[6] a bill authorizing the issuance of patents to persons purchasing Government lots in the district of Waiakea, Island of Hawaii.

The Committee also reported, in 1921,[7] a bill granting a franchise for the purpose of manufacturing and supplying gas and electric current in certain districts in the Territory of Hawaii.

On September 7, 1917,[8] on motion of Mr. Whitmell P. Martin, Louisiana, by unanimous consent, the reference of the concurrent resolution (H. Con. Res. 16) to open lands in Hawaii to homestead entry, was changed from the Committee on Insular Affairs to the Committee on the Territories.

On December 2, 1913,[9] a motion by Mr. William C. Houston, of Tennessee, to take from the Committee on Insular Affairs the bill (H.R. 9022), ratifying an act of the Legislature of Hawaii, was unanimously agreed to, and the bill was referred to the Committee on the Territories.

On November 14, 1919,[10] on motion of Mr. Charles F. Curry, of California, by unanimous consent, the Committee on Military Affairs was discharged from the consideration of H. R. 10432 to provide for the exchange of Government lands for privately owned lands in the Territory of Hawaii, and the bill was referred to the Committee on the Territories.

1945. A bill relating to the medical treatment of persons in Hawaii was transferred from the Committee on Interstate and Foreign Commerce to the Committee on Territories.

On April 13, 1932,[11] following the reading and approval of the Journal, Mr. Guinn Williams, of Texas, from the Committee on Territories, asked unanimous

[1] Second session Sixty-first Congress, Report. No. 971.
[2] Second session Sixty-seventh Congress, Report No. 1082.
[3] First session Sixtieth Congress, Reports 968, 1547.
[4] First session Sixty-ninth Congress, Report No. 716.
[5] Second session Sixty-sixth Congress, Report No. 526.
[6] First session Sixty-eighth Congress, Report No. 539.
[7] First session Sixty-seventh Congress, Report. No. 163.
[8] First session Sixty-fifth Congress, Record, p. 6749.
[9] Second session Sixty-third Congress, Record, p. 74.
[10] First session Sixty-sixth Congress, Record, p. 8544.
[11] First session Seventy-second Congress, Record, p. 8135.

consent for the transfer of the joint resolution (H. J. Res. 361) to authorize the Surgeon General of the United States Public Health Service to make a survey as to the existing facilities for the protection of the public health in the care and treatment of leperous persons in the Territory of Hawaii, from the Committee on Interstate and Foreign Commerce to the Committee on Territories.

Mr. Bertrand H. Snell, of New York, having reserved the right to object, the Speaker [1] said:

> The Chair understands that the Committee on Interstate and Foreign Commerce requests that this joint resolution be referred to the Committee on the Territories. Is there objection?

There was no objection.

1946. Recent history of the Committee on Insular Affairs, section 18 of Rule XI.

Section 18 of Rule XI provides for the reference of subjects relating—

> to all matters (excepting those affecting the revenue and the appropriations) pertaining to the islands which came to the United States through the treaty of 1899 with Spain, and to Cuba to the Committee on Insular Affairs.

This rule has been retained without amendment in the form in which originally adopted in 1899.[2]

The number of Members on the committee was increased from eighteen to nineteen in 1907,[3] and from nineteen to twenty-one in 1911.[4] The committee now consists of twenty-one Members and the Resident Commissioner of Porto Rico.

1947. The Committee on Insular Affairs exercises practically an exclusive jurisdiction over the affairs of the islands ceded by the treaty of 1899, except as to matters of revenue and appropriations.

The resolution (H. Res. 340) providing for the distribution of the annual message of the President to the committees, adopted January 13, 1914,[5] provided that so much of the message as "relates to all matters pertaining to the island which came to the United States through the treaty of 1899 with Spain be referred to the Committee on Insular Affairs."

1948. The Committee on Insular Affairs has general jurisdiction of subjects relating to the Philippine Islands.

The Committee on Insular Affairs reported:

In 1927,[6] a bill to ratify and confirm certain acts of the Philippine Legislature.

In 1925,[7] a bill legalizing certain taxes imposed by the Philippine Legislature.

In 1910,[8] a bill providing for the quadrennial election of the Philippine Legislature and Resident Commissioners to the United States.

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[1] John N. Garner, of Texas, Speaker.

[2] First session Fifty-sixth Congress, Record, pp. 60, 159.

[3] First session Sixtieth Congress, Record, p. 356.

[4] First session Sixty-second Congress, Record, pp. 11, 80.

[5] Second session Sixty-third Congress, Record, p. 1592.

[6] Second session Sixty-ninth Congress, Report No. 2033.

[7] Second session Sixty-eighth Congress, Report No. 1290.

[8] Second session Sixty-first Congress, Report No. 1358.

In 1908,[1] bills to increase the membership of the Philippine Commission, and to regulate shipping in trade between the United States and the Philippine Archipelago.

1949. Legislation relating to Porto Rico, with the exception of matters of revenue and appropriations, are within the jurisdiction of the Committee on Insular Affairs.

The Committee on Insular Affairs reported:

In 1926,[2] bills providing for the enlargement, completion, and repair of customs warehouses and other customs buildings in Porto Rico.

In 1921,[3] a bill authorizing the Secretary of the Treasury to repair and rebuild customs buildings in Porto Rico, and to pay for the same out of duties collected in Porto Rico.

In 1910,[4] a bill authorizing the President to convey to the people of Porto Rico certain land and buildings not needed for purposes of the United States.

In 1909,[5] a bill authorizing the construction of a bridge across the Condado Bay on San Juan Island, Porto Rico.

1950. The Committee on Insular Affairs exercises a general jurisdiction of subjects relating to the Virgin Islands, with the exception of matters of revenue and appropriations.

The Committee on Insular Affairs reported:

In 1926,[6] bills providing for a permanent government of the Virgin Islands of the United States.

In 1927,[7] bills providing for the government of the Virgin Islands, conferring United States citizenship upon certain inhabitants of the Virgin Islands, extending the naturalization laws thereof, and authorizing appropriations for public highways in the Virgin Islands.

In 1922,[8] a bill to authorize the United States Shipping Board to acquire a site on the Virgin Islands for a fuel and fuel-oil station and fresh-water reservoir for Shipping Board and other merchant vessels, as well as United States naval vessels.

1951. History of the former Committee on Railways and Canals.

Section 19 of Rule XI formerly provided for the reference of subjects relating—

to railways and canals to the Committee on Railways and Canals.

This rule retained the form in which adopted in 1880[9] until 1911,[10] when the clause limiting the jurisdiction of the committee to railroads "other than Pacific

[1] First session Sixtieth Congress, Reports Nos. 1049, 1475.
[2] First session Sixty-ninth Congress, Report No. 619, 620.
[3] First session Sixty-seventh Congress, Report No. 147.
[4] Second session Sixty-first Congress, Report No. 1327.
[5] Second session Sixtieth Congress, Record, p. 2021.
[6] First session Sixty-ninth Congress, Reports Nos. 654, 760.
[7] Second session Sixty-ninth Congress, Reports No. 2095, 2093, 2034.
[8] Second session Sixty-seventh Congress, Report No. 1202.
[9] Second session Forty-sixth Congress, Record, p. 205.
[10] First session Sixty-second Congress, Record, pp. 12, 80.

railroads" was omitted. In practice, however, the committee had relinquished jurisdiction as to railroads and had exercised a limited jurisdiction of legislation pertaining to canals only.

The committee consisted of fourteen Members at the time of its discontinuance. It was abolished in the revision of 1927,[1] and its jurisdiction transferred to the Committee on Rivers and Harbors and the Committee on Interstate and Foreign Commerce.

1952. The Committee on Railways and Canals had a general though not exclusive jurisdiction of the subject of canals but had long ceased to exercise jurisdiction as to railways.

While the Committee on Railways and Canals retained a general but not exclusive[2] jurisdiction of the subject of canals, it had in latter years reported on legislation relating to railroads.

The Committee reported on the chartering of canal companies, surveys for canals, construction and maintenance of canals, and the cost of transportation by canals, as follows:

In 1909,[3] a bill to amend the charter of certain canal companies.

In 1921,[4] a bill to require the Secretary of War to cause to be made a survey for a canal from Cumberland Sound to the mouth of the Mississippi River.

In 1908,[5] a bill authorizing the Secretary of War to complete surveys for a ship canal from Toledo to Chicago.

In 1911,[6] a bill authorizing the construction of a canal connecting the Hackensack River with other waterways in the State of New Jersey.

In 1920,[7] the resolution (H. Res. 201) authorizing the Secretary of Commerce to report to the House of Representatives the cost of transportation of coal by canals and other navigable waters within the continental United States as compared with railway rates, together with recommendations.

1953. Jurisdiction of the subject of canals was formerly vested in the Committee on Railways and Canals and not in the Committee on Rivers and Harbors.

On June 26, 1917,[8] while the river and harbor bill was under consideration in the Committee of the Whole House on the state of the Union, Mr. John H. Small, of North Carolina, offered as a committee amendment the following:

> Broad and Congaree Rivers and Columbia Canal, at or near Columbia, S.C., with a view of improvements for navigation, consideration to be given to any proposition for local cooperation.

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[1] First session Seventieth Congress, Record, p. 11.

[2] See sections 1806 and 1840 of this volume.

[3] Second session Sixtieth Congress, Report No. 2022.

[4] Third session Sixty-sixth Congress, Report No. 1246.

[5] First session Sixtieth Congress, Report No. 1760.

[6] Third session Sixty-first Congress, Report No. 2279.

[7] Second session Sixty-sixth Congress, Report No. 946.

[8] First session Sixty-fifth Congress, Record, p. 4316.

Mr. Martin B. Madden, of Illinois, made a point of order against the proposed amendment and said:

Mr. Chairman, I make the point of order that this committee has no jurisdiction over canals, and that if the question of a canal was up for consideration on the floor of this House and stood alone that it would not be privileged, and not being privileged standing alone, that this committee can not take jurisdiction in an appropriation bill to make it privileged.

The Chairman [1] sustained the point of order.

On January 8, 1916,[2] during the consideration of the river and harbor bill in the Committee of the Whole House on the state of the Union, Mr. Frank Park, of Georgia, asked unanimous consent that the Committee on Railways and Canals be discharged from the further consideration of the bill (H.R. 6460) to provide for a survey and estimate of cost of a canal connecting the waters of the Flint and Ocmulgee Rivers in the State of Georgia, and that the bill be referred to the Committee on Rivers and Harbors.

Thereupon, Mr. James R. Mann, of Illinois, said:

Mr. Speaker, will the Chair bear with me just a moment? I have made the point of order several times on river and harbor bills, in various Congresses, against items for canals, and the point of order has always been sustained where the Chair thought it was an appropriation for a canal. There is no question that the reference of the bill to the Committee on Railways and Canals is a correct reference where it provides for the purchase or construction of a canal. The Committee on Rivers and Harbors has very wide latitude of jurisdiction and it never reports upon these individual bills separately. If it finds that an item is for improvement of a river, it can include that item in its omnibus river and harbor bill if it chooses to do so; but the jurisdiction of the bill, when it is introduced as a separate measure, is in the Committee on Railways and Canals, which committee, I hope, will be revivified and will take action on some of these things.

The Speaker [3] said:

If it is necessary, the Chair asks unanimous consent to make a statement about the reference. There is a committee in this House upon Railways and Canals, and somehow, or somehow else, the Committee on Rivers and Harbors for several years has absorbed all the functions of that Committee on Railways and Canals. There are half a dozen of these bills like the one that the gentleman from Georgia is talking about. One of two things ought to be done about them: Either the bills that apply to that Committee on Railways and Canals ought to be sent to it, or the committee ought to be abolished; so the Chair, not having the power to abolish the committee, referred these bills to the Committee on Railways and Canals. The Chair thought this statement was due to the House. If there is no objection to its going to the Committee on Rivers and Harbors, the Chair has none.

The question being put, Mr. John N. Garner, of Texas, objected, and the reference of the bill to the Committee on Railways and Canals was sustained.

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[1] Pat Harrison, of Mississippi, Chairman.

[2] First session Sixty-fourth Congress, Record, p. 726.

[3] Champ Clark, of Missouri, Speaker.

Chapter CCXXX.[1]

HISTORY AND JURISDICTION OF THE STANDING COMMITTEES—Continued.

1954. Recent history of the Committee on Mines and Mining, Section 19 of Rule XI.

Section 19 of Rule XI provides for the reference of subjects relating—

to the mining interests to the Committee on Mines and Mining.

[1] Supplementary to Chapter C1.

The present form of this rule dates from the revision of 1880.[1]

The membership of the committee was increased to fifteen by the addition of one Member in 1924,[2] and in the Sixty-ninth Congress [3] was temporarily increased to sixteen members, effective from January 5, 1926, to March 2, 1927. A permanent increase to twenty-one members was made in the general increase of membership of committees in 1933.[4]

The membership of the committee also includes one Delegate.

1955. The subjects of the mineral laws and claims and entries thereunder have been within the jurisdiction of the Committee on Mines and Mining.

The Committee on Mines and Mining reported:

In 1925,[5] a bill authorizing the sale of certain mineral lands in Pennsylvania.

In 1924,[6] a joint resolution to suspend the requirements of annual assessment work on certain mining claims for a period of three years.

In 1921,[7] a bill changing the period for doing work on unpatented mineral claims for the calendar year to the fiscal year ending June 30 each year.

1956. Legislation providing for relief in cases of mineral contracts connected with the prosecution of the war, and claims thereunder, has been considered by the Committee on Mines and Mining.

The Committee on Mines and Mining reported:

In 1919 and 1921,[8] bills to provide relief in cases of contracts connected with the prosecution of the war.

In 1924,[9] a bill to authorize the payment of claims under the provisions of the so-called war mineral relief act.

1957. Bills relating to the mining laws in their application to the Territories have been reported by the Committee on Mines and Mining.

On May 23, 1921,[10] Mr. Marion E. Rhodes, of Missouri, asked unanimous consent for a change in the reference of the bill (H. R. 2919) relating to assessment work on mining claims in the Territory of Alaska and said:

> The bill proposes to fix certain conditions under which assessment work may be done on mining claims and is the same class of legislation which the Committee on Mines and Mining has reported and has passed through this House time and again. The chairman of the Committee on Territories and the ranking member, Mr. Weaver, of North Carolina, agreed that the bill was erroneously referred and should have been referred to the Committee on Mines and Mining in the first instance.

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[1] Second session Forty-sixth Congress, Record, p. 205.

[2] First session Sixty-eighth Congress, Record, p. 1157.

[3] First session Sixty-ninth Congress, Record, p. 1504.

[4] First session Seventy-third Congress, Record, p. 6371.

[5] Second session Sixty-eighth Congress, Report No. 1293.

[6] First session Sixty-eighth Congress, Report No. 316.

[7] First session Sixty-seventh Congress, Report No. 108.

[8] First session Sixty-seventh Congress, Report No. 325.

[9] First session Sixty-eighth Congress, Report No. 601.

[10] First session Sixty-seventh Congress, Record, p. 1637.

The request was agreed to and the bill was referred to the Committee on Mines and Mining.

The Committee on Mines and Mining reported in 1925,[1] and 1926,[2] bills to modify and amend the mining laws in their application to the Territory of Alaska.

1958. Bills regulating the mining of radium ores, withdrawing public lands containing such ores, and conserving the radium supply of the United States, are within the jurisdiction of the Committee on Mines and Mining.

On January 13, 1914,[3] Mr. Edward T. Taylor, of Colorado, asked unanimous consent that the joint resolution (H. J. Res. 185) authorizing the President to withdraw public lands containing carnotite, pitchblend, or other radium-bearing ores and minerals, and the joint resolution (H. J. Res. 186) authorizing the Secretary of the Interior to withdraw from entry any public lands containing radium, which had previously been referred to the Committee on Mines and Mining, be taken from that committee and referred to the Committee on Public Lands.

Objection being made, Mr. Taylor, by direction of the Committee on Public Lands, moved that the Committee on Mines and Mining be discharged from the further consideration of joint resolutions H. J. Res. 185 and H. J. Res. 186 and the same be referred to the Committee on Public lands.

The question being taken, on a division it was decided in the negative, yeas 119, nays 188, and the motion was not agreed to.

The Committee on Mines and Mining reported in, 1914,[4] the bill (H. R. 12741) to provide for an encourage the prospecting, mining, and treatment of radium-bearing ores in lands belonging to the United States, for the purpose of securing an adequate supply of radium for Government and other hospitals in the United States.

1959. Bills relating to the welfare of men working in mines have been reported by the Committee on Mines and Mining.

The Committee on Mines and Mining reported, in 1911,[5] a bill granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment.

1960. Legislative propositions relating to the work of the Geological Survey have been reported by the Committee on Mines and Mining.

The Committee on Mines and Mining reported on May 6, 1926,[6] a bill authorizing joint investigations by the United States Geological Survey and the Bureau of Soils of the United States Department of Agriculture to determine the location and extent of potash deposits or occurrence in the United States and improved methods of recovering potash therefrom.

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[1] Second session Sixty-eighth Congress, Report No. 1289.

[2] First session Sixty-ninth Congress, Report No. 1233.

[3] Second session Sixty-third Congress, Record, p. 1590.

[4] Second session Sixty-third Congress, Report No. 214.

[5] First session Sixty-second Congress, Report No. 148.

[6] First session Sixty-ninth Congress, Report No. 1105.

1961. Legislation relating to Government fuel yards in the District of Columbia has been considered to be within the jurisdiction of the Committee on Mines and Mining.

On January 22, 1921,[1] Mr. Marion E. Rhodes, of Missouri, called attention to the reference of the bill (H. R. 15793) authorizing the Secretary of the Interior to purchase necessary lands for use of the Government fuel yards, for the erection of a garage, and payment by check by branches of the Federal Government for fuel furnished, to the Committee on Public Buildings and Grounds, and asked unanimous consent that the reference be changed from that committee to the Committee on Mines and Mining, and said:

Mr. Speaker, the bill merely provides for the acquisition by the Government of the ground by purchase on which the present fuel yards are situated. In 1918 the Government acquired a 5-year lease on a plot of ground in this city to be known as the Government fuel yards, from which fuel is distributed to the various governmental agencies.

The original legislation was initiated by Doctor Foster, who was chairman of the Committee on Mines and Mining in 1917. I have spoken to the parliamentarian and also to the chairman of the Committee on Public Buildings and Grounds, the committee to which it was referred, and all agree that the bill was erroneously referred.

Mr. Otis Wingo, of Arkansas, added:

If the gentleman will permit me, this subject has been before the Committee on Mines and Mining since 1915.

The question being put, there was no objection and the bill was referred to the Committee on Mines and Mining.

The Committee on Mines and Mining reported on June 22, 1921,[2] the bill (H. R. 3721) to authorize and provide for the acquisition of title to lands to be used as a Government fuel yard.

1962. Recent history of the Committee on Public Buildings and Grounds, section 20 of Rule XI.

Section 20 of Rule XI provides for the reference of subjects relating—

to the public buildings and occupied or improved grounds of the United States, other than appropriations therefor, to the Committee on Public Buildings and Grounds.

This rule retains the form adopted in the revision of 1880.[3]

The membership of the committee was increased from sixteen to seventeen Members in 1907,[4] by the adoption of Order No. 1 offered by Mr. John Dalzell, of Pennsylvania; from seventeen to nineteen in 1913[5] on motion of Mr. Oscar W. Underwood, of Alabama; from nineteen to twenty Members in 1918[6] by resolution (H. Res. 222) proposed by Mr. Claud Kitchin, of North Carolina, and to its present quota of twenty-one Members in 1924[7] when the resolution (H. Res. 146) was agreed to.

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[1] Third session Sixty-sixth Congress, Record, p. 1888.

[2] First session Sixty-seventh Congress, Report No. 213.

[3] Second session Forty-sixth Congress, Record p. 205.

[4] First session Sixtieth Congress, Record, p. 356.

[5] First session Sixty-third Congress, Record, p. 1784.

[6] Second session Sixty-fifth Congress, Record, p. 852.

[7] First session Sixty-eighth Congress, Record, p. 1143.

1963. The acquisition of property for Federal building purposes and the relinquishment of such property belonging to the United States are subjects within the jurisdiction of the Committee on Public Buildings and Grounds.

The Committee on Public Buildings and Grounds reported:

In 1926,[1] bills to authorize the sale of abandoned tracts of land and buildings belonging to the United States, and the purchase of quarantine stations in various states.

In 1920,[2] a bill authorizing the acceptance of real estate donated for Federal buildings.

On May 25, 1920,[3] Mr. John W. Langley, of Kentucky, by direction of the Committee on Public Lands, moved that that committee be discharged from the further consideration of the bill (S. 3995) providing for the relinquishment of certain property by the United States to the City of San Francisco.

The motion was agreed to and the bill was referred to the Committee on Public Buildings and Grounds.

1964. Legislative provisions for the construction of Federal buildings in the Territories have been reported by the Committee on Public Buildings and Grounds.

On February 18, 1919,[4] the Committee on Public Buildings and Grounds reported the bill (H. R. 14674) to increase the limit of cost for the construction of the United States public building authorized at Juneau, Alaska.

1965. The Committee on Public Buildings and Grounds has reported legislative propositions relating to the buildings and grounds of the Botanic Garden, the Capitol, and the Bureau of Standards.

The Committee on Public Buildings and Ground reported:

In 1926,[5] bills authorizing the buildings of a power plant, master track scale, and test-car depot at the Bureau of Standards and provisions for the enlargement of the Capitol grounds.

In 1925,[6] a bill to provide for the building of a conservatory and other necessary buildings for the United States Botanic Garden.

1966. Bills providing for the purchase of post-office sites and the erection of buildings thereon are within the jurisdiction of the Committee on Public Buildings and Grounds rather than that of the Committee on the Post Office and Post Roads.

On February 23, 1910,[7] on suggestion of the Speaker,[8] by unanimous consent, the bill (H. R. 21593) for the purchase of a site and the erection of a building thereon for post-office purposes in the City of Norwalk, Ohio, was taken from the Committee

[1] First session Sixty-ninth Congress, Reports Nos. 372, 718.

[2] Second session Sixty-sixth Congress, Report No. 521.

[3] Second session Sixty-sixth Congress, Record, p. 7592.

[4] Third session Sixty-fifth Congress, Report No. 1085.

[5] First session Sixty-ninth Congress, Reports Nos. 569, 570, 1467, 652.

[6] Second session Sixty-eighth Congress, Report No. 286.

[7] Second session Sixty-first Congress, Record, p. 2281.

[8] Joseph G. Cannon, of Illinois, Speaker.

on the Post Office and Post Roads and referred to the Committee on Public Buildings and Grounds.

On February 12, 1916,[1] on motion of Mr. Davis Oakey, of California, by unanimous consent, the Committee on the Post Office and Post Roads was discharged from the consideration of the bill (H. R. 439) for the purchase of a post-office site at Southington, Connecticut, and the same was referred to the Committee on Public Buildings and Grounds.

1967. The acceptance, acquisition, and exchange of lands for park purposes in the District of Columbia are subjects within the jurisdiction of the Committee on Public Buildings and Grounds.

The Committee on Public Buildings and Grounds reported in 1924,[2] bills authorizing the extension of the park system of the District of Columbia, and the acceptance of certain lands in the District of Columbia donated by individuals for park purposes.

On February 22, 1910,[3] upon the initiative of the Speaker,[4] by unanimous consent, the bill (H. R. 11194) authorizing the purchase of land for a public park in the District of Columbia, was taken from the Committee on the District of Columbia to which it had previously been referred and was referred to the Committee on Public Buildings and Grounds.

On March 28, 1908,[5] at the instance of the Speaker,[4] by unanimous consent, the Committee on the District of Columbia was discharged from consideration of the bill (H. R. 19920) to provide for the completion of the park surrounding the filtration plant in the District of Columbia, and the same was referred to the Committee on Public Buildings and Grounds.

1968. The construction of a memorial bridge[6] across the Potomac River is a subject which has been considered by the Committee on Public Buildings and Grounds.

On April 24, 1924,[7] a message from the President relative to the Arlington Memorial Bridge was referred by the Speaker[8] to the Committee on Public Buildings and Grounds.

The Committee on Public Buildings and Grounds reported in 1925,[9] a bill to provide for the construction of a memorial bridge across the Potomac from a point near the Lincoln Memorial in the city of Washington to an appropriate point in the State of Virginia.

1969. Legislation authorizing hospital facilities for soldiers, sailors, and marines has been reported by the Committee on Public Buildings and

[1] First session Sixty-fourth Congress, Record, p. 2455.
[2] First session Sixty-eighth Congress, Reports Nos. 278, 337, 511.
[3] Second session Sixty-first Congress, Record, p. 2206.
[4] Joseph G. Cannon, of Illinois, Speaker.
[5] First session Sixtieth Congress, Record, p. 4085.
[6] See section 1845 of this volume.
[7] First session Sixty-eighth Congress, Record, p. 7077.
[8] Frederick H. Gillett, of Massachusetts, Speaker.
[9] Second session Sixty-eighth Congress, Report No. 1291.

Grounds, although jurisdiction over that subject is now exercised by the Committee on World War Veterans' Legislation.[1]

The Committee on Public Buildings and Grounds reported:

In 1920,[2] a bill to authorize the Secretary of the Treasury to provide hospital and sanitorium facilities for discharged and disabled soldiers, sailors, and marines.

In 1920,[3] and 1921,[4] bills to provide medical, surgical, and hospital services and supplies for patients of the Bureau of War Risk Insurance and of the Federal Board of Vocational Education, Division of Rehabilitation, suffering from neuro-psychiatric and tubercular ailments and diseases.

In 1924,[5] a joint resolution to authorize the erection of a sanitary, fireproof hospital for the National Home for Disabled Volunteer Soldiers at Santa Monica, California.

In 1927,[6] a bill authorizing the erection of a sanitary, fireproof hospital at the National Home for Disabled Volunteer Soldiers, at Dayton, Ohio.

1970. The House has decided that legislative propositions to provide housing in time of emergencies is within the jurisdiction of the Committee on Public Buildings and Grounds and not the Committee on Labor.

On February 13, 1918,[7] on motion of Mr. Frank Clark, of Florida, the House voted yeas 173, nays 59, to change the reference of the bill (H. R. 9642) to authorize the Secretary of Labor to provide housing for war needs from the Committee on Labor, to which it originally had been referred, to the Committee on Public Buildings and Grounds.

1971. Authorization for designs of Library and Museum buildings within the District of Columbia and the erection of buildings on the grounds of the Smithsonian Institution are within the jurisdiction of the Committee on Public Buildings and Grounds and not the Committee on the Library.

On May 28, 1917,[8] Mr. Frank Clark, of Florida, called attention to the reference of the joint resolution (H. J. Res. 94) authorizing the Board of Regents of the Smithsonian Institution to permit the Secretary of War to erect temporary buildings in the Smithsonian Grounds to the Committee on the Library.

By unanimous consent, on Mr. Clark's request, the bill was transferred to the Committee on Public Buildings and Grounds.

On February 20, 1919,[9] on motion of Mr. Frank Clark, of Florida, by unanimous consent, the Committee on the Library was discharged from the consideration of the bill (H. R. 16024) to provide a commission to secure plans and designs for an arch

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[1] See section 2079 of this volume.

[2] Second session Sixty-sixth Congress, Reports Nos. 856, 1098.

[3] Report No. 1098.

[4] Third session Sixty-sixth Congress, Report No. 1250.

[5] First session Sixty-eighth Congress, Report No. 507.

[6] Second session Sixty-ninth Congress, Report No. 1818.

[7] Second session Sixty-fifth Congress, Record, p. 2068.

[8] First session Sixty-fifth Congress, Record, p. 2990.

[9] Third session Sixty-fifth Congress, Record, p. 3866.

to be erected in the city of Washington, to be known as "a national arch of triumph," to commemorate freedom to the world and the heroes and events of the Great War, and the same was transferred to the Committee on Public Buildings and Grounds.

1972. Authorization for construction of buildings for the customs service on military reservations is a subject within the jurisdiction of the Committee on Public Buildings and Grounds and not the Committee on Military Affairs.

On February 21, 1908,[1] at the instance of the Speaker,[2] by unanimous consent, the bill (H. R. 538) authorizing the construction upon a military reservation of suitable buildings for the accommodation of the customs service, was taken from the Committee on Military Affairs, to which originally referred, and was referred to the Committee on Public Buildings and Grounds.

1973. Recent history of the Committee on Education, section 21 of Rule XI.

Section 21 of Rule XI provides for the reference of subjects relating—

to educate to the Committee on Education.

The present form of this rule dates from 1883.[3]

There are twenty-one members in this committee, the membership of the committee having been increased from fifteen to twenty-one, in 1927,[4] in the adoption of rules for the Seventieth Congress.

1974. Illustrations of the general jurisdiction of the Committee on Education.

The Committee on Education reported:

In 1926,[5] a bill relative to the incorporation of an education institution in the District of Columbia.

In 1926,[6] a joint resolution authorizing participation of the Government of the United States in the Philadelphia Conference of 1926 upon narcotic education.

In 1924,[7] a bill providing for library information service in the Bureau of Education.

In 1925,[8] a bill to encourage the study of the Constitution of the United States at all educational institutions.

1975. Jurisdiction over legislative propositions relating to the vocational rehabilitation of disabled persons discharged from the military or naval forces was exercised by the Committee on Education until transferred to the Committee on World War Veterans' Legislation, in 1924.[9]

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[1] First session Sixtieth Congress, Record, p. 2321.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] First session Forty-eighth Congress, Record, pp. 195, 196.

[4] First session Seventieth Congress, Record, p. 11.

[5] First session Sixty-ninth Congress, Report No. 163.

[6] First session Sixty-ninth Congress, Report No. 4.

[7] First session Sixty-eighth Congress, Report No. 161.

[8] Second session Sixty-eighth Congress, Report No. 1367.

[9] See section 2078 of this volume.

The Committee on Education reported:

In 1918, 1919, and 1921,[1] bills providing for vocational rehabilitation and return to civil employment of disabled persons discharged from the military or naval service of the United States.

In 1920,[2] on the investigation of the Federal Board for Vocational Education, made pursuant to an order made by the House.

In 1924,[3] a bill providing for the vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment.

1976. The Committee on Education retains jurisdiction over legislative propositions relating to the vocational education and rehabilitation of persons not discharged from the military or naval forces.

The Committee on Education reported:

In 1929[4] and 1928,[5] bills providing for the vocational education of persons not discharged from the military or naval service of the United States.

In 1930[6] and 1924,[7] bills for the vocational rehabilitation of certain civilians.

In 1928,[8] a bill for the vocational rehabilitation of disabled residents of the District of Columbia.

In 1931,[9] a bill for vocational education and civilian rehabilitation in Porto Rico.

1977. Recent history of the Committee on Labor, Section 22 of Rule XI.

Section 22 of Rule XI provides for the reference of subjects relating—

to and affecting labor to the Committee on Labor.

There has been no change in this rule since its adoption in its present form in 1883.[10]

The membership of the committee was increased in 1915,[11] on motion of Mr. Robert L. Henry, of Texas, by unanimous consent, from thirteen to fourteen members, and in 1924,[12] from fourteen to fifteen members in the adoption of the rules for the Sixty-eighth Congress. It was increased to twenty-one, its present membership, in the general increase of membership of committees, in 1927.[13]

1978. Matters relating to labor employed in the various branches of the Government service have been considered by the Committee on Labor.

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[1] Third session Sixty-sixth Congress, Report No. 1374.
[2] Second session Sixty-sixth Congress, Report No. 1104.
[3] First session Sixty-eighth Congress, Report No. 164.
[4] Second session Seventieth Congress, Report No. 2076.
[5] First session Seventieth Congress, Report No. 1667.
[6] Second session Seventy-first Congress, Report No. 742.
[7] First session Sixty-eighth Congress, Report No. 164.
[8] First session Seventieth Congress, Report No. 1578.
[9] Third session Seventy-first Congress, Report No. 2083.
[10] First session Forty-eighth Congress, Record, pp. 5, 19196.
[11] First session Sixty-fourth Congress, Record, p. 13.
[12] First session Sixty-eighth Congress, Record, p. 1143.
[13] First session Seventieth Congress, Record, p. 11.

On March 27, 1912,[1] at the instance of the Speaker,[2] the bill (H. R. 22339) to regulate the method of directing the work of Federal employees was taken from the Committee on the Judiciary and referred to the Committee on Labor.

The Committee on Labor reported:

In 1908,[3] a joint resolution in reference to the employment of enlisted men in competition with local civilians.

In 1911,[4] on the resolution (H. Res. 90) providing for investigation of the "Taylor System" of the shop management.

1979. The Committee on Labor has reported on the subject of arbitration as a means of settling labor troubles.

The Committee on Labor reported, in 1908,[5] a bill relative to the establishment of the foundation for the promotion of industrial peace.

1980. Bills relating to convict labor and the entry of goods made by convicts into interstate commerce have been reported by the Committee on Labor.

The Committee on Labor reported:

In 1924,[6] a resolution directing the Secretary of Labor to make a report on the subject of convict labor in the United States.

In 1916,[7] and 1926,[8] bills to prohibit from interstate commerce the production of convict labor.

In 1913,[9] a bill to prohibit importation of goods made by convict labor.

On May 16, 1911,[10] the Speaker[2] announced that the author of the bill (H. R. 5601) regulating commerce of convict-made goods and the Chairman of the Committee on Interstate and Foreign Commerce, to which the bill had been referred, had requested that the committee be discharged from the consideration of the bill.

A request for unanimous consent being submitted and being agreed to, the bill was referred to the Committee on Labor.

1981. Propositions to regulate interstate commerce in products of child labor have been within the jurisdiction of the Committee on Labor.

In 1914,[11] 1915,[12] and 1916[13] the Committee on Labor reported bills to prevent interstate commerce in the products of child labor.

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[1] Second session Sixty-sixth Congress, Report No. 2923.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixtieth Congress, Record, p. 532.

[4] First session Sixty-second Congress, Report No. 52.

[5] First session Sixtieth Congress, Report No. 1451.

[6] First session Sixty-eighth Congress, Report No. 210.

[7] First session Sixty-fourth Congress, Report No. 75.

[8] First session Sixty-ninth Congress, Report No. 1040.

[9] Second session Sixty-fifth Congress, Report No. 358.

[10] First session Sixty-second Congress, Record, p. 1253.

[11] Second session Sixty-third Congress, Report No. 1085.

[12] Third session Sixty-third Congress, Report No. 1400.

[13] First session Sixty-fourth Congress, Report No. 46.

1982. A proposition for the establishment of a children's bureau was held by the House to be within the jurisdiction of the Committee on Labor rather than the Committee on Interstate and Foreign Commerce.

On February 9, 1912,[1] the House, on division, decided—yeas 175, nays 113—to take the bill (S. 252) to establish in the Department of Commerce and Labor a bureau to be known as the Children's Bureau from the Committee on Interstate and Foreign Commerce and refer it to the Committee on Labor.

1983. Recent history of the Committee on Patents, section 23 of Rule XI.

Section 23 of Rule XI provides for the reference of subjects relating—

to patents, copyrights, and trade-marks to the Committee on Patents.

There has been no change in the phraseology of this rule since adoption in 1880.[2] The number of members on the committee remained unchanged until 1927,[3] when it was increased from fifteen to twenty-one.

1984. The subjects of patent law, jurisdiction of the courts in patent cases, and the Patent Office, including a building therefor, have been considered by the Committee on Patents.

The Committee on Patents reported:

In 1912,[4] a joint resolution requesting the President to cause an investigation of the Patent Office and make a report with recommendation to Congress.

In 1920,[5] a bill authorizing the Federal Trade Commission to accept and administer for the benefit of the public and the encouragement of industry, inventions, patents, and patent rights.

Also,[6] a bill to increase the force and salaries of the Patent Office.

In 1925,[7] a bill to prevent fraud, deception, or improper practice in connection with business before the United States Patent Office.

In 1926,[8] a bill amending the Judicial Code with reference to patents and a bill granting an extension of patent to the United Daughters of the Confederacy.

In 1927,[9] bills allowing an appeal under certain circumstances in a patent suit, and amending the statutes as to procedure in the Patent Office and in the courts with regard to the granting of letters patent for inventions.

1985. Bills relating to the general subject of trade-marks, including punishment for the counterfeiting thereof, have been considered by the Committee on Patents.

The Committee on Patents reported in 1927,[10] a bill to protect trade-marks used in commerce and to authorize the registration of such trade-marks.

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[1] Second session Sixty-second Congress, Record, p. 1872.

[2] Second session Forty-sixth Congress, Record, p. 205.

[3] First session Seventieth Congress, Record, p. 11.

[4] Second session Sixty-second Congress, Report No. 1051.

[5] Second session Sixty-sixth Congress, Report No. 970.

[6] Report No. 612.

[7] Second session Sixty-eighth Congress, Report No. 1622.

[8] First session Sixty-ninth Congress, Reports No. 713, 714.

[9] Second session Sixty-ninth Congress, Reports No. 1889, 1890.

[10] Second session Sixty-ninth Congress, Report No. 2203.

1986. The Committee on Patents has jurisdiction of general and special legislation relating to copyright.

The Committee on Patents reported in 1909 [1] and in 1927,[2] bills amending and consolidating acts respecting copyrights.

1987. Recent history of the Committee on Invalid Pensions, section 24 of Rule XI.

Section 24 of Rule XI provides for the reference of subjects relating—

to the pensions of the Civil War to the Committee on Invalid Pensions.

Both the form of this rule and the number constituting the membership of the committee remained unchanged from the adoption of the rules for the Forty-sixth Congress, in 1880,[3] until the revision of 1927,[4] when the number on the committee was increased from sixteen to twenty-one.

This committee may report general pension bills at any time.[5]

1988. The Committee on Invalid Pensions reports general and special bills authorizing payments of pensions to soldiers of the civil war, but actual appropriations therefor are reported by the Committee on Appropriations.

The Committee on Invalid Pensions has reported all general and special pension legislation relating to veterans of the civil war [6] and exercises exclusive jurisdiction of that subject. Appropriations so authorized are reported by the Committee on Appropriations.[7]

As an indication of the scope of its jurisdiction, the Committee on Invalid Pensions reported in 1912,[8] a bill granting pensions to volunteer army nurses of the civil war.

1989. Recent history of the Committee on Pensions, section 25 of Rule XI.

Section 25 of Rule XI provides for the reference of subjects relating—

to the pensions of all the wars of the United States, other than the civil war, to the Committee on Pensions.

This rule has been adopted in its present form by each Congress since 1880.[9]

The membership of the Committee on Pensions was increased from fourteen members to fifteen members in 1907 [10] by the adoption of Order No. 1 offered by Mr. John Dalzell, of Pennsylvania.

1990. The Committee on Pensions reports general and special bills authorizing the payment of pensions, but appropriations therefor are reported by the Committee on Appropriations.

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[1] Second session Sixtieth Congress, Report No. 2222.

[2] Second session Sixty-ninth Congress, Reports Nos. 2027, 2225.

[3] Second session Forty-sixth Congress, Record, p. 205.

[4] First session Seventieth Congress, Record, p. 11.

[5] See section 2251 of this volume.

[6] Second session Sixty-ninth Congress, Reports Nos. 1667, 1682, 1782, 1795.

[7] First session Sixty-ninth Congress, Report No. 37.

[8] Second session Sixty-second Congress, Report No. 1000.

[9] Second session Forty-sixth Congress, Record, p. 205.

[10] First session Sixtieth Congress, Record, p. 356.

The Committee on Pensions has reported all general and special legislation relating to pensions for veterans of all wars except the civil war.[1]

The actual appropriation of the money to meet the requirements of such legislation is within the jurisdiction of the Committee on Appropriations.[2]

1991. Recent history of the Committee on Claims, section 26 of Rule XI.

Section 26 of Rule XI provides for the reference of subjects relating—

to private and domestic claims and demands, other than war claims, against the United States to the Committee on Claims.

The rule fixing the jurisdiction of this committee was adopted in its present form in the revision of 1880.[3]

The membership of the committee was increased from fifteen to sixteen members in 1907,[4] and from sixteen to twenty-one, in 1927.[5]

1992. The Committee on Claims has jurisdiction over appropriations for the payment of claims other than war claims against the United States and items providing appropriations for such purposes in bills reported by the committee are not subject to the point of order that jurisdiction to report appropriations rests exclusively in the Committee on Appropriations.

Committees having jurisdiction of bills for the payment of private claims may report bills making appropriations within the limits of their jurisdiction.

On June 24, 1921,[6] during consideration of business on the Private Calendar, the bill (H. R. 4620) for the relief of Th. Brovig, owner of a vessel damaged in collision with a United States barge, was reached.

Mr. Thomas L. Blanton, of Texas, made the point of order that the Committee on Claims had no jurisdiction to report the bill, as it provided for an appropriation, a subject within the exclusive jurisdiction of the Committee on Appropriations.

In the course of the debate on the point of order, Mr. George W. Edmonds, of Pennsylvania, submitted the following brief:

"QUESTION.

"Is the Committee on Claims a committee having jurisdication to report appropriations?

"We submit that it clearly is, for the following reasons:

"1. It has always, during its entire history, reported bills carrying appropriations.

"2. Its authority to do so was never questioned.

"3. During the periods when the jurisdiction of other committees to report appropriations was suspended or transferred this committee continued to report appropriations to pay claims without question.

"4. It is the oldest existing committee, having been established November 13, 1794. Even the Committee on Ways and Means, which combined the duties of raising the revenue and making

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[1] Second session Sixty-ninth Congress, Reports Nos. 1667, 1682, 1782, 1795.

[2] First session Sixty-ninth Congress, Report No. 37.

[3] Second session Forty-sixth Congress, Record, p. 205.

[4] First session Sixtieth Congress, Record, p. 356.

[5] First session Seventieth Congress, Record, p. 11.

[6] First session Sixty-seventh Congress, Record, p. 3050.

the general appropriations for current expenses of the Government until the time of the Civil War, was not established until January 7, 1802. Form its establishment the Claims Committee reported appropriations for payment of the claims it approved.

"5. The order establishing the Claims Committee defined its duties:

"'To take into consideration all such petitions and matters or things touching claims and demands on the United States as shall be presented or shall or may come in question and be referred to them by the House, and to report their opinion thereon, together with such propositions for relief therein as to them shall seem expedient.' (Nov. 13, 1794.)

"This remained the rule defining its jurisdiction at least down to 1867 (see Barclay's Digest for 1867, p. 35), and during that entire period it reported bills carrying appropriations for payment of claims, those bills were passed, and it does not appear that such jurisdiction was ever questioned.

"6. When the rules were next revised its jurisdiction was described as 'subject relating to private and domestic claims and demands, other than war claims, against the United States,' and this language has defined its jurisdiction, without change, to the present time. During all this period precisely as before, this committee has continued, without challenge or question, to report bills carrying appropriations for payment of the claims approved.

"7. It seems to be the only committee that has authority to report appropriations for payment of claims other than war claims. Where is authority given the Committee on Appropriations to report an appropriation for payment of a claim? Paragraph 4 of Rule XXI forbids the reference of a private claim to that committee."

The settlement of a claim has always been understood to be in the Claims Committee, and I contend it should have that right and continue to have that right until some definite change is made in our rules.

After further debate, the Chairman [1] ruled:

House bill 4620 was introduced on the 20th of April and referred to the Committee on Claims. The bill relates to a claim against the Government of the United States. The gentleman from Texas, Mr. Blanton, made a point of order, which he has withdrawn after argument, but the gentleman from Arkansas, Mr. Wingo, renews the point of order, that the Committee on Claims had no jurisdiction to report this bill; that is calls for an appropriation, and therefore the Committee on Claims was without jurisdiction.

In the last Congress the rules of the House were so changed as to consolidate the ordinary appropriations of the revenues of the Government for the support of the Government in one committee. The language of the clause relating to appropriations is as follows:

"Rule XI, clause 3: To the appropriation of the revenue for the support of the Government * * * to the Committee on Appropriations."

That is to say, there shall be referred to the Committee on Appropriations matters relative to the support of the Government out of revenues. This still leaves, in the opinion of the Chair, the retention of their jurisdiction by certain other committees, even though those committees may affect appropriations or may carry an appropriation in the bills that they report. The language of clause 4, Rule XXI, is as follows:

"No bill for the payment or adjudication of any private claim against the Government shall be referred, except by unanimous consent, to any other than the following committees, viz: To the Committee on Invalid Pensions, to the Committee on Pensions, to the Committee on Claims, to the Committee on War Claims, to the Committee on the Public Lands, and to the Committee on Accounts."

These committees have exclusive jurisdication over private claims against the Government.

If this bill had been referred to the Committee on Appropriations, the question of the jurisdiction of that committee could have been successfully raised. If it had been referred to any committee other than the Committee on Claims, the question of the jurisdictionof that other committee could have been successfully raised. No other committee in the House had jurisdiction over this bill.

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[1] Philip P. Campbell, of Kansas, Chairman.

The rules of the House were made for the purpose of enabling the House to expedite the business of the House. It never was intended by those who created the rules of the House that business could be entirely throttled or interfered with, as was suggested a moment ago, when it was said that this bill could only be referred to the wastebasket. This bill was properly referred to the Committee on Claims, and the Chair believes it was properly reported by that committee.

Every few weeks since the Committee on Appropriations has had exclusive jurisdiction over appropriations for the support of the Government the Committee on Accounts has reported here appropriations out of the contingent fund of the House without any question, and yet the language is so broad here that if it were strictly construed one might think that even the Committee on Accounts is denied the right to make appropriations out of the contingent fund of the House, because clause 5 of Rule XXI says—

"No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations."

The Committee on Accounts has jurisdiction to report appropriations; also the Committee on Claims. Therefore the Chair thinks that the Committee on Claims retains its jurisdiction over private claims against the Government, and that this bill is properly within the jurisdiction of that committee, and overrules the point of order.

1993. On December 12, 1924,[1] the House resolved itself into the Committee of the Whole House for the consideration of claims on the Private Calendar, and Mr. George W. Edmonds, of Pennsylvania, called up for consideration the bill (S. 88) for the relief of Louis Leavitt, containing the following provision:

That upon final determination of such cause if a decree or judgment is rendered against the United States, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a sum sufficient to pay final judgment, which shall be paid to said Louis Leavitt or his duly authorized attorneys of record by the Secretary of the Treasury upon the presentation of a duly authenticated copy of such final decree or judgment.

Mr. Thomas L. Blanton, of Texas, made the point of order that the Committee on Claims was without jurisdiction to report an appropriation.

The Chairman[2] held:

The gentleman from Texas makes the point of order against the bill that it carries an appropriation and that the Committee on Claims has no jurisdiction to report such an appropriation. The gentleman from Texas makes a further point of order which should be directed to the amendment, it occurs to the Chair, rather than to the bill. That point of order, if good at all—and the Chair is inclined to think it is not well taken—would be a point of order directed to the amendment when it is considered rather than to the bill. The presumption is that we consider the bill alone.

The same point of order was made by the gentleman from Texas on June 24, 1921, and the then Chairman of the committee, the gentleman from Kansas, Mr. Campbell, ruled on the point of order and held that the change in the rules which took away from the various committees which had appropriating power the right to appropriate did not affect the Committee on Claims.

After reading the decision referred to the Chairman continued:

Of course, everyone realizes that if a bill is properly referred to a committee and no point of order could then be made against it, that committee has the power to report on that measure,[3] and, construing all of the rules together, the present occupant of the chair will adhere to the former ruling by Chairman Campbell and hold that the point of order is not well taken. The Chair overrules the point of order.

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[1] Second session Sixty-eighth Congress, Record, p. 538.

[2] Mr. Everett Sanders, of Indiana, Chairman.

[3] It should be noted, however, that the reference and report of a private bill do not preclude a point of order as to the jurisdiction of the committee to report it.

1994. Legislative propositions relating to private claims against the Government are within the exclusive jurisdiction of the Committee on Claims and items in bills reported by the Committee on Appropriations providing for reimbursement for such claims are subject to a point of order.

On June 16, 1910,[1] the House was in the Committee of the Whole House on the state of the Union for the consideration of the general deficiency bill, when the following paragraph was read:

To pay the Southern Pacific Company for damages to the ferry steamer *Encinal* sustained in collision with the United States quarantine steamer *Argonaut* at San Francisco, September 10, 1907, $1,517.08.

Mr. William H. Stafford, of Wisconsin, having raised a question of order against the paragraph, Mr. James A. Tawney, of Minnesota, said:

Mr. Chairman, I will say to the gentleman from Wisconsin that what appealed to the committee was the admitted fact by the Treasury Department that this damage was the result of the negligence of our employees. There was no question whatever about that, and the amount of the damage has been ascertained. There is no question about our liability.

The Chairman[2] ruled:

Under paragraph 3 of Rule XXI it is provided:

"No bill for the payment or adjudication of any private claim against the Government shall be referred, except by unanimous consent, to any other than the following-named committees, viz: To the Committee on Invalid Pensions, to the Committee on Pensions, to the Committee on Claims, to the Committee on War Claims, to the Committee on Private Land Claims, and to the Committee on Accounts."

Subject, of course, to the exception that where there is a judgment of court that may be included in an appropriation bill. It has not been shown, and it is not claimed, that it is the judgment of a court. The Chair has knowledge of a number of claims very similar, with the recommendations of the Secretary of the Treasury or other departments in favor of them, which have been referred to the Committee on Claims and are still pending there. It appears to the Chair this item ought to be referred to the Committee on Claims, and therefore the Chair sustains the point of order.

1995. The relief of Government employees for losses sustained by reason of unmerited discharge or the underserved infliction of penalties is a subject within the jurisdiction of the Committee on Claims.

On February 4, 1925,[3] on motion of Mr. Louis T. McFadden, of Pennsylvania, Chairman of the Committee on Banking and Currency, acting by direction of that committee, by unanimous consent, the bill (S. 3221) for the relief of employees of the Bureau of Engraving and Printing removed by Executive order, was taken from the Committee on Banking and Currency and referred to the Committee on Claims.

1996. Legislative propositions relating to claims of a Territory against the United States are within the jurisdiction of the Committee on Claims.

The Committee on Claims reported in 1908,[4] a bill to refund to the Territory of Hawaii the amount expended in maintaining lighthouses on its coasts from the

[1] Second session Sixty-first Congress, Record, p. 8361.

[2] Mr. John Q. Tilson, of Connecticut, Chairman.

[3] Second session Sixty-eighth Congress, Record, p. 3010.

[4] First session Sixtieth Congress, Report No. 1434.

time of the organization of the Territory until the service was taken over by the Federal government.

1997. Bills authorizing the refund of customs duties have been reported by the Committee on Claims.

The Committee on Claims reported in 1920,[1] a bill to authorize the refund of duties collected on field kitchens imported during the year 1916.

On February 4, 1914,[2] on motion of Mr. Henry M. Goldfogle, of New York, by unanimous consent, the bill (H. R. 4310) concerning customs duties collected from Bernard Citroen and found by the Supreme Court to have been illegally exacted, was taken from the Committee on Ways and Means and referred to the Committee on Claims.

1998. Legislative proposals relating to claims for expenses incurred under direction of the Army and claims of Army personnel belong to the jurisdiction of the Committee on Claims and not the Committee on Military Affairs.

On December 4, 1919,[3] Mr. Daniel R. Anthony, Jr., of Kansas, by direction of the Committee on Military Affairs, asked unanimous consent that a letter from the Secretary of War relating to claims and credit accounts of certain Army officers, which had been referred to that committee, be referred to the Committee on Claims.

The request was agreed to.

On January 18, 1921,[4] on request of Mr. Julius Kahn, of California, acting by direction of the Committee on Military Affairs, the bill (H. R., 2712) to reimburse the Commonwealth of Massachusetts for expenses incurred in the protection of bridges under direction of the commanding general of the Eastern Department of the Army, was taken from that committee and referred to the Committee on Claims.

1999. Bills relating to claims of Postmasters[5] for unavoidable losses are within the jurisdiction of the Committee on Claims and not of the Committee on the Post Office and Post Roads.

On January 11, 1916, immediately after the reading and approval of the Journal, Mr. Thomas U. Sisson, of Mississippi, asked unanimous consent that the bill (H. R. 8466) introduced by him and providing for the relief of a postmaster be taken from the Committee on Claims and referred to the Committee on the Post Office and Post Roads.

Mr. Sisson said:

> There is no money to be paid out of the Treasury. It is for the relief of a postmaster where funds were taken from the post office by burglary, but no payment has been made by the postmaster into the Treasury. The bill should be referred to the Committee on the Post Office and Post Roads. Because there is no claim against the Government here at all. He is simply asking to be relieved of the payment of the funds. My understanding, Mr. Speaker, is that where there is any claim against the Treasury it would go to the Committee on Claims, but where it was merely for the relief of a postmaster it would to the Committee on the Post Office and Post Roads.

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[1] Second session Sixty-sixth Congress, Report No. 897.

[2] Second session Sixty-third Congress, Record, p. 2888.

[3] Second session Sixty-sixth Congress, Record, p. 150.

[4] Third session Sixty-sixth Congress, Record, p. 1625.

[5] See section 1917 of this volume.

Mr. James R. Mann, of Illinois, submitted:

That has always been considered as a claim against the Government, and those bills have always gone to the Committee on Claims. There have been a large number of them. We had two notable cases—one at St. Louis and one at Chicago—with quite a controversy over them, and they went to the Committee on Claims. I think the Committee on the Post Office and Post Roads would have no authority to report it under the rules.

The Speaker [1] added:

They have gone to the Committee on Claims for 22 years, to my certain knowledge, because I served on that committee when I was here first. There is no question but that it should go to the Committee on Claims. Of course, the Chair has no right to interject.

The request for unanimous consent for the change of reference being put, objections were made, and the bill was retained by the Committee on Claims.

2000. A bill providing relief for loss of property resulting from flood due to failure of an irrigation dam erected under authorization of legislation reported by the Committee on Public Lands was transferred from that committee to the Committee on Claims.

On May 5, 1930,[2] on motion of Mr. Don B. Colton, of Utah, by unanimous consent, the joint resolution (S. J. Res. 56) providing for adjudication of claims arising from the overflow of the Rio Grande River as a consequence of the breaking of the dam on the Elephant Butte irrigation project was transferred from the Committee on Public Lands to the Committee on Claims.

2001. General bills providing for the consideration and adjudication of classes of claims are within the jurisdiction of the Committee on Claims.

The Committee on Claims reported:

In 1921,[3] a bill relating to the settlement of claims for damages arising from collisions with naval vessels.

In 1926,[4] a bill providing for the adjudication of claims against the Government in sums not exceeding $3,000 in any one case.

In 1931,[5] a bill for the disposition of claims against the United States on account of property damage, personal injury, or death.

2002. Recent history of the Committee on War Claims, Section 27 of Rule XI.

Section 27 of Rule XI provides for the reference of subjects relating—

to claims arising from any war in which the United States has been engaged to the Committee on War Claims.

This rule has retained its present form since 1873.[6] The Committee on War Claims, in common with the Committee on Claims,[7] is authorized to report appropriations for the payment of individual claims.

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Seventy-first Congress, Record, p. 8361.

[3] First session Sixty-seventh Congress, Report No. 84.

[4] First session Sixty-ninth Congress, Report No. 667.

[5] Third session Seventy-first Congress, Report No. 2800.

[6] First session Forty-third Congress, Record, p. 23.

[7] See section 1992 of this volume.

The membership of the committee was increased from thirteen to fifteen members, by the adoption of Order No. 1, offered by Mr. John Dalzell, of Pennsylvania, in 1907,[1] and from fifteen to twenty-one members in 1927.[2]

2003. The Committee on War Claims has exercised a general but not exclusive jurisdiction over general bills providing for the adjudication or settlement of classes of war claims.

The Committee on War Claims reported:

In 1927,[3] bills for the relief of certain officers and former officers of the Army; and for the relief[4] of certain natives of the Philippine Islands for rental of houses by the United States Army.

In 1926,[5] bills for the payment of claims for damages, loss of property, and personal injuries incident to operation of the Army.

In 1925,[6] a bill for the payment of claims arising out of Army operations.

In 1922,[7] bills to allow credits in the accounts of certain disbursing officers of the Army.

2004. Recent history of the Committee on the District of Columbia, section 28 of Rule XI.

Section 28 of Rule XI provides for the reference of subjects relating—

to the District of Columbia other than appropriations therefor to the Committee on the District of Columbia.

The present form of this rule has been retained since the revision of 1880.[8]

The membership of the committee was increased from eighteen to nineteen members in 1907,[9] and from nineteen to twenty-one members in 1911.[10]

2005. Bills providing for the acquisition, transfer, and relinquishment of Government-owned land in the District have been reported by the Committee on the District of Columbia.

The Committee on the District of Columbia reported:

In 1926,[11] a bill for the exchange of certain lands in the District of Columbia.

In 1925,[12] bills for the acquisition of land for a connecting parkway, and for the acquisition of certain land sites for public buildings.

In 1920,[13] a bill to provide for the sale by the Commissioners of the District of Columbia of certain lands in the District acquired for a school site.

On May 11, 1910,[14] on the initiative of the Speaker,[15] by unanimous consent, the joint resolution (H. J. Res. 200) directing the Secretary of War to sell certain

[1] First session Sixtieth Congress, Record, p. 356.

[2] First session Seventieth Congress, Record, p. 11.

[3] Second session Sixty-ninth Congress, Report No. 1953.

[4] Report No. 1774.

[5] First session Sixty-ninth Congress, Report No. 391.

[6] Second session Sixty-eighth Congress, Report No. 1575.

[7] Second session Sixty-seventh Congress, Report No. 980.

[8] Second session Forty-sixth Congress, Record, p. 825.

[9] First session Sixtieth Congress, Record, p. 356.

[10] First session Sixty-second Congress, Record, pp. 11, 80.

[11] First session Sixty-ninth Congress, Report No. 813.

[12] Second session Sixty-eighth Congress, Reports No. 1510, 1586.

[13] Second session Sixty-sixth Congress, Report No. 943.

[14] Second session Sixty-first Congress, Record, p. 6114.

[15] Joseph G. Cannon, of Illinois, Speaker.

parcels of land in the District of Columbia was taken from the Committee on Public Buildings and Grounds and referred to the Committee on the District of Columbia.

2006. The Committee on the District of Columbia has reported bills for the incorporation of organizations and societies.

The Committee on the District of Columbia reported:

In 1926,[1] bills for the incorporation of nonprofit, nonsecret associations; and legislative propositions relative to the incorporation of the American Social Science Association.

In 1920,[2] and 1921,[3] bills relative to incorporation of the Masonic Relief Association of the District and the Roosevelt Memorial Association.

2007. Bills amending the corporation laws in the District are within the jurisdiction of the Committee on the District of Columbia.

The Committee on the District of Columbia reported in 1926,[4] a bill amending the corporation laws of the District of Columbia.

2008. Subjects relating to the health of the District, sanitary and quarantine regulations, etc., have been within the jurisdiction of the Committee on the District of Columbia.

The Committee on the District of Columbia reported:

In 1926,[5] bills regulating the practice of chiropractic in the District of Columbia; governing the manufacture, renovating, and sale of mattresses; regulating the sale of kosher meat; and the handling of milk bottles in the District.

In 1925,[6] a bill to regulate the sale of milk, cream, and ice cream in the District of Columbia.

2009. The Committee on the District of Columbia has exercised jurisdiction of bills for the regulation of child labor in the District.

The Committee on the District of Columbia reported in 1908 [7] a bill to regulate the employment of child labor in the District of Columbia.

2010. Legislative propositions relating to organized activities of Government employees in the District have been reported by the Committee on the District of Columbia.

The Committee on the District of Columbia reported in 1912,[8] a bill regulating lobbying and preventing employees of the Government of the United States and the District of Columbia from raising funds for lobbying purposes.

2011. Bills relating to holidays in the District have been reported by the Committee on the District of Columbia.

The Committee on the District of Columbia reported in 1926,[9] a bill to declare Saturday, December 26, 1925, a legal holiday in the District of Columbia.

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[1] First session Sixty-ninth Congress, Reports No. 1056, 1134.

[2] Second session Sixty-sixth Congress, Report No. 811.

[3] Third session Sixty-sixth Congress, Report No. 1244.

[4] First session Sixty-ninth Congress, Report No. 1468.

[5] First session Sixty-ninth Congress, Reports 970, 1465, 594, 969.

[6] Second session Sixty-eighth Congress, Report No. 1313.

[7] First session Sixtieth Congress, Report No. 1524.

[8] Second session Sixty-second Congress, Report No. 543.

[9] First session Sixty-ninth Congress, Report No. 6.

2012. Bills relating to court procedure in criminal cases in the District of Columbia are within the jurisdiction of the Committee on the District of Columbia.

On Monday, March 26, 1928,[1] the House was considering business reported by the Committee on the District of Columbia, when the Clerk read the title of the bill (H. R. 52) to regulate the business of executing bonds for compensation in criminal cases and to improve the administration of justice in the District of Columbia.

Mr. Fiorello H. LaGuardia, of New York, in the course of debate, asserted that the bill was not under the jurisdiction of the Committee on the District of Columbia and should have been referred to the Committee on the Judiciary.

Following the passage of the bill,[2] the Speaker[3] addressed the House and said:

The Chair desires to make an observation to the House. In view of the question raised as to the reference of this bill and the one preceding it, the question being that both should have gone to the Committee on the Judiciary and not to the Committee on the District of Columbia, the Chair will state that when these bills were brought before him he thought the reference to the Committee on the District of Columbia proper under the rules of the House.

Under the rule, matters relating to the District of Columbia are referred to the Committee on the District of Columbia, and among the list of bills that have been so referred in the past the Chair will read a few:

"Bills proposing legislation as to the general municipal affairs of the District, relating to health, sanitary and quarantine regulations, holidays, protection of fish and game, regulation of sale of intoxicating liquors, adulteration of food, drugs, etc.; taxes and tax sales, insurance, bills for preserving public order at times of inauguration, the Government Hospital for the Insane, harbor regulations and the bridge over the Eastern Branch, executors, administrators, wills and divorce, police and juvenile courts, and justices of the peace"—

And so forth.

All these bills either change existing law or enact new law, but they apply solely to the affairs of the District of Columbia. If, as has been claimed to-day, any bill which changes existing law or enacts new law affecting only the District were referred to the Committee on the Judiciary, plainly the Committee on the Judiciary would become the Committee on the District of Columbia, because most of the jurisdiction of the Committee on the District of Columbia relates to changes of law or enactment of new laws.

The Chair thinks the reference was proper, that it complies with the rules of the House and with all the precedents the Chair knows on the subject.

Mr. LaGuardia submitted:

Mr. Speaker, may I make a statement?

The reason that prompted me in making the observation was the authority contained in section 4068 of the fourth volume of Hinds' Precedents, which sets out several bills relating to the police court of the District of Columbia, and my main objection and the objection of the committee was that this affected existing penal law, and clearly all penal law is under the jurisdiction of the Committee on the Judiciary under the rules of the House.

The Speaker concluded:

But the Committee on the District of Columbia has jurisdiction, for instance, of the laws regulating the sale of intoxicating liquor in the District of Columbia. Surely the gentleman would not contend under the precedents that that matter should be referred to the Committee on the Judiciary, and yet according to the gentleman's statement it would have to be so referred. The Chair thinks the proper rule is that, notwithstanding the fact a bill changes existing law or enacts

[1] First session Seventieth Congress, Record, p. 5385.

[2] Record, p. 5397.

[3] Nicholas Longworth, of Ohio, Speaker.

new law, if it relates only to the District of Columbia, it should properly go to the Committee on the District of Columbia. The Chair could conceive of some cases, perhaps, where the matter in fact affects only the District of Columbia but involved changes of basic law which should go to the Judiciary Committee.

So the Chair will continue, unless otherwise ordered by the House, to refer bills like the ones in question to the Committee on the District of Columbia.

2013. Bills providing for the incorporation of societies in the District of Columbia are within the jurisdiction of the Committee on the District of Columbia.

On February 2, 1929,[1] Mr. George R. Stobbs, of Massachusetts, asked recognition to present a unanimous-consent request for the rereference of the bill (H. R. 16792) to amend the District Code relative to the incorporation of societies, from the Committee on the District of Columbia to the Committee on the Judiciary.

The Speaker[2] said:

The Chair hesitates to recognize the gentleman for this purpose, because he is absolutely clear that the reference to the District of Columbia Committee was proper. The bill seeks to amend the District Code in order to permit the incorporation of a certain society. The incorporation of similar societies has invariably been referred to the District of Columbia Committee.

The Chair understands the situation to be this: the gentleman from Massachusetts introduced a private bill which he had the right to refer to any committee he chose to, and it was referred by the gentleman to the Committee on the Judiciary. Subsequently he introduced this bill as a general law amending the District of Columbia Code, covering all such cases. That being a public bill, the Chair referred it to the District of Columbia Committee. The Chair thought that under such circumstances no other reference could be possible, inasmuch as it would only affect the incorporation of societies in the District of Columbia.

On suggestion of Mr. John N. Garner, of Texas, the request was withdrawn and on February 13, 1929,[3] the bill was reported to the House by the Committee on the District of Columbia, and subsequently passed the House.

2014. Recent history of the Committee on Revision of the Laws, section 29 of Rule XI.

Section 29 of Rule XI provides for the reference of subjects relating—

to the revision and codification of the Statutes of the United States to the Committee on the Revision of the Laws.

The present phraseology of this rule dates from 1880.[4] The committee has a wide jurisdiction but has given its attention principally to revisions and codifications and has infrequently reported bills providing for mere change of law.

The committee is composed of thirteen Members.

2015. Examples of jurisdiction of the Committee on Revision of Laws over bills embodying codifications.

The Committee on Revision of the Laws reported:

In 1920,[5] and 1921,[6] bills to consolidate, codify, revise and reenact the general and permanent laws of the United States in force March 4, 1919.

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[1] Second session Seventieth Congress, Record, p. 2708.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] Record, p. 3417.

[4] Second session Forty-sixth Congress, Record, p. 205.

[5] Second session Sixty-sixth Congress, Report No. 781.

[6] First session Sixty-seventh Congress, Report No. 12.

In 1925,[1] a bill to consolidate, codify, and reenact the general and permanent laws of the United States in force December 7, 1925.[2]

2016. The Committee on the Revision of the Laws has reported bills incidental to its jurisdiction over revision and codification of laws.

The Committee on the Revision of the Laws reported in 1925,[3] a bill to provide for the publication of the Code of the Laws of the United States with index, reference tables, appendix, etc.

2017. Recent history of the Committee on the Civil Service, section 30 of Rule XI.

Section 30 of Rule XI provides for the reference of subjects relating——

to the civil service to the Committee on the Civil Service.

The committee consists of twenty-one Members.

The title of the committee, formerly known as the Committee on Reform in the Civil Service,[4] was amended in 1924[5] to its present designation. With this exception there has been no change in the rule since its adoption in 1893.[6] The number of Members composing the committee remained unchanged until 1927,[7] when it was increased from thirteen to twenty-one.

2018. The Committee on the Civil Service has exercised a general jurisdiction over bills relating to the status of officers, clerks, and employees in the civil branches of the Government.

The Committee on the Civil Service reported:

In 1926,[8] a bill granting leaves of absence to ex-service men and women.

In 1912,[9] a bill to promote efficiency in Government service.

2019. The covering of post office departmental positions into the classified service is a subject within the jurisdiction of the Committee on the Civil Service and not the Committee on the Post Office and Post Roads.

On January 30, 1912,[10] the Speaker[11] asked unanimous consent to a reference from the Committee on the Post Office and Post Roads to the Committee on the

[1] First session Sixty-ninth Congress, Report No. 900.

[2] This bill was enacted and constitutes the Code of the Laws of the United States complete to December 7, 1925, embodying the substance corrected to that date, of the Revised Statutes of 1878 and the subsequent Statutes at Large. Mr. Edward C. Little, of Kansas, Chairman of the Committee on the Revision of the Laws, inserted in the Record on February 6, 1923 (fourth session Sixty-seventh Congress, Record, p. 3137), as an extension of his remarks, an exhaustive discussion of the subject. Mr. Roy G. Fitzgerald, of Ohio, chairman of the Committee on the Revision of the Laws, inserted in the Record on March 3, 1927 (second session Sixty-ninth Congress, Record, p. 5976), a summary of the plans for the cumulative codification of the laws of the United States, and for perfecting the scientific arrangement of the laws and legislative expression.

[3] First session Sixty-ninth Congress, Report No. 910.

[4] See section 4296 of Hinds' Precedents.

[5] First session Sixty-eighth Congress, Record, p. 1143.

[6] First session Fifty-third Congress, Record, p. 477.

[7] First session Seventieth Congress, Record, p. 11.

[8] First session Sixty-ninth Congress, Reports Nos. 962, 1014.

[9] Second session Sixty-second Congress, Report No. 1031.

[10] Second session Sixty-second Congress, Record, p. 1559.

[11] Champ Clark, of Missouri, Speaker.

Civil Service, of the bill (H. R. 8958) placing certain positions in the Post Office Department in the competitive classified service.

Mr. James R. Mann, of Illinois, inquired if the request was made with the consent of the Chairman of the former committee.

The Speaker replied that no one had been consulted but that a similar bill was pending in the Committee on the Civil Service upon which hearings had been held.

The question being submitted, there was no objection and the bill was transferred to the Committee on the Civil Service.

2020. The classification of employees in the civil branches of the Government and their salaries are subjects within the jurisdiction of the Committee on the Civil Service.

The Committee on the Civil Service reported: In 1923,[1] 1925,[2] and 1926,[3] bills providing for the classification and reclassification of employees of the United States.

In 1919,[4] and 1920,[5] bills relating to the classification of salaries and to the reports and the preservation and maintenance of the records of the Joint Commission on the Reclassification of Salaries.

2021. The Committee on the Civil Service exercises exclusive jurisdiction of subjects relating to the retirement of employees in the classified civil service.

The Committee on the Civil Service reported: In 1925,[6] and 1926,[7] bills for the retirement of employees of the United States.

In 1919,[8] 1920,[9] and 1921,[10] bills to amend the act for the retirement of employees in the classified civil service; and for the relief of certain employees of the Government who have been eligible for retirement under the act of May 22, 1920, and have thereafter been continued in the service or reemployed therein.

In 1909,[11] and 1910,[12] bills for the retirement of employees in the classified civil service.

2022. Legislative propositions relating to the Bureau of Efficiency and needs of personnel in the executive departments belong to the jurisdiction of the Committee on the Civil Service and not to the Committee on the Judiciary.

On January 18, 1924,[13] the bill (H. R. 5723), that all of that portion of the Urgent Deficiency Appropriation Act approved February 28, 1916, which reads as

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[1] Second session Sixty-eighth Congress, Report No. 1572.

[2] First session Sixty-ninth Congress, Report No. 960.

[3] Report No. 961.

[4] Second session Sixty-sixth Congress, Report No. 507.

[5] Report No. 987.

[6] Second session Sixty-eighth Congress, Report No. 1613.

[7] First session Sixty-ninth Congress, Reports Nos. 768, 1099.

[8] First session Sixty-sixth Congress, Report No. 120.

[9] Second session Sixty-sixth Congress, Report No. 813.

[10] Third session Sixty-sixth Congress, Reports Nos. 1303, 1304.

[11] Second session Sixtieth Congress, Report No. 2227.

[12] Second session Sixty-first Congress, Report No. 1081.

[13] First session Sixty-eighth Congress, Record, p. 1115.

follows, to wit, "That hereafter the Division of Efficiency of the Civil Service Commission shall be an independent establishment and shall be known as the Bureau of Efficiency; and * * * the duties relating to efficiency ratings imposed upon the Civil Service Commission by section 4 of the Legislative, Executive, and Judicial Appropriation Act approved August 23, 1912, and the duty of investigating the administrative needs of the service relating to personnel in the several executive departments and independent establishments imposed on the Civil Service Commission by the Legislative, Executive, and Judicial Appropriation Act, approved March 4, 1913, are transferred to the Bureau of Efficiency," be, and the same is hereby, repealed, was introduced and referred to the Committee on the Judiciary.

On January 24,[1] the Speaker[2] announced that after consultation the Chairman of the Committee on the Judiciary and the Chairman of the Committee on the Civil Service had agreed that the bill should have been referred to the latter committee.

Accordingly, upon suggestion of the Speaker, by unanimous consent, the reference was changed from the Committee on the Judiciary to the Committee on the Civil Service.

2023. Recent history of the Committee on Election of President, Vice President, and Representatives in Congress, section 31 of Rule XI.

Section 31 of Rule XI provides for the reference of subjects relating—

to the election of the President, Vice-President, or Representatives in Congress—to the Committee on Election of President, Vice President, and Representatives in Congress.

This committee consists of thirteen Members.

No change has been made in this rule or in the number constituting the committee since the first adoption of the rule in 1893.[3]

2024. The Committee on Election of President, Vice President, and Representatives in Congress has reported legislative propositions relating to publicity of campaign contributions made for the purpose of influencing elections.

The Committee on Election of President, Vice President, and Representatives in Congress reported:

In 1922,[4] a bill providing for publicity of contributions made for the purpose of influencing general or special elections at which Representatives in Congress and Members of the United States Senate are elected.

In 1910,[5] a bill providing for the publicity of contributions made for the purpose of influencing election at which Representatives in Congress are elected.

In 1908,[6] a bill providing that all contributions hereafter made to political committees engaged in promoting the election of Representatives, etc., shall be reported to the Clerk of the House.

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[1] Record, p. 1396.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Fifty-third Congress, Record, p. 477.

[4] Second session Sixty-seventh Congress, Report No. 1138.

[5] Second session Sixty-first Congress, Report No. 928.

[6] First session Sixtieth Congress, Report No. 1505.

2025. Legislative propositions pertaining to the nomination of the President, Vice-President, and Representatives in Congress are within the jurisdiction of the Committee on Election of President, Vice-President, and Representatives in Congress.

On January 13, 1914,[1] the resolution (H. Res. 340) distributing the annual message of the President to the committees of the House, gave to the Committee on Election of President, Vice-President, and Representatives in Congress, so much of the message as related to the nomination of the President.

The Committee on the Election of President, Vice-President, and Representatives in Congress reported in 1912,[2] a bill for the publicity of contributions and expenditures for the purpose of influencing or securing the nomination of candidates for the offices of President and Vice-President of the United States.

2026. Proposed changes of the Constitution as to the term of Congress and the President and the time of annual meeting of Congress have been considered by the Committee on Election of President, Vice-President, and Representatives in Congress.

The Committee on Election of President, Vice-President, and Representatives in Congress reported in 1926,[3] a joint resolution proposing an amendment to the Constitution of the United States fixing the Commencement of the terms of President and Vice-President and Members of Congress, and fixing the time of the assembling of Congress.

2027. The Committee on Election of President, Vice-President, and Representatives in Congress has reported on bills relating to contests of election of Representatives in Congress.

The Committee on Election of President, Vice-President, and Representatives in Congress reported in 1925,[4] a bill to provide for election contests in the Senate of the United States.

2028. Changes in law regarding the electoral count, and resolutions regulating the actual count by the House and Senate, are within the jurisdiction of the Committee on Election of President, Vice-President, and Representatives in Congress.

The Committee on Election of President, Vice-President, and Representatives in Congress reported:

In 1909,[5] and 1925,[6] concurrent resolutions providing for the count of the electoral vote in the presence of the two Houses.[7]

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[1] Second session Sixty-third Congress, Record, p. 1592.

[2] Second session Sixty-second Congress, Report No. 565.

[3] First session Sixty-ninth Congress, Report No. 362.

[4] Second session Sixty-eighth Congress, Report No. 1589.

[5] Second session Sixtieth Congress, Report No. 1944.

[6] Second session Sixty-eighth Congress, Report No. 1209.

[7] In practice the resolution providing for a joint session of the two Houses to count the electoral vote is prepared in the Senate and is frequently taken from the Speaker's table by unanimous consent when received in the House without reference to the committee. Under such circumstances it is called up by a member of the Committee on the Election of President, Vice-President, and Representatives in Congress. (Third session Sixty-second Congress, Record, p. 2454; Second session Sixty-fourth Congress, Record, p. 2127; Third session Sixty-sixth Congress, Record, p. 1829.)

2029. History of the former Committee on Alcoholic Liquor Traffic, section 33 of Rule XI.

Section 33 of Rule XI formerly provided for the reference of subjects relating—

to alcoholic liquor traffic to the Committee on Alcoholic Liquor Traffic.

This committee consisted of eleven members.

There was no change either in the jurisdiction of or in the number of members constituting this committee from its creation as a standing committee in 1893 until its discontinuation in 1926.[1,2]

2030. Illustrations of the jurisdiction of the former Committee on Alcoholic Liquor Traffic.

The Committee on Alcoholic Liquor Traffic reported in 1912,[3] a bill to prohibit the sale of intoxicating liquor to minors within the admiralty and maritime jurisdiction of the United States.

On April 15, 1914,[4] on motion of Mr. Addison T. Smith, of Idaho, by unanimous consent, the Committee on the Judiciary was discharged from the consideration of the bill (H. R. 12315) to prohibit the sale or gift of intoxicating liquors to minors or Indians within the admiralty and maritime jurisdiction of the United States, and the bill was referred to the Committee on Alcoholic Liquor Traffic.

2031. Recent history of the Committee on Irrigation and Reclamation, Section 32 of Rule XI.

Section 32 of Rule XI provides for the reference of subjects relating—

to the irrigation to the Committee on Irrigation and Reclamation.

The jurisdiction of this committee, when created in 1893,[5] was limited to subjects relating to the irrigation of arid lands, but was enlarged in 1924[6] to include subjects pertaining to reclamation in general.

The number of members comprising the committee was increased from twelve to thirteen in 1907,[7] was further increased to fifteen in 1913,[8] and to twenty-one in 1933.[9]

2032. Preemption and disposition of lands on reclaimed and irrigated projects are subjects within the jurisdiction of the Committee on Irrigation and Reclamation.

The Committee on Irrigation and Reclamation reported:

In 1910,[10] a bill relating to homestead entries on lands to be irrigated under the provisions of the act of June 17, 1902.

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[1] First session Fifty-third Congress, Record, p. 477.
[2] First session Seventieth Congress, Record, p. 11.
[3] Second session Sixty-second Congress, Report No. 800.
[4] Second session Sixty-third Congress, Record, p. 6770.
[5] First session Fifty-third Congress, Record, p. 477.
[6] First session Sixty-third Congress, Record, p. 1143.
[7] First session Sixtieth Congress, Record, p. 356.
[8] First session Sixty-third Congress, Record, p. 1784.
[9] First session Seventy-third Congress, Record, p. 6371.
[10] Second session Sixty-first Congress, Report No. 806.

In 1912,[1] a bill providing for the disposition of town sites in connection with reclamation projects.

In 1922,[2] a bill to encourage the development of the agricultural resources of the United States through Federal and State cooperation, giving preference in the matter of employment and the establishment of rural homes to those who serve with the military and naval forces.

In 1925,[3] bills to provide for aided and directed settlements on Government land in irrigation projects; and for refunds to veterans of the World War of certain amounts paid by them under Federal irrigation projects.

2033. The Committee on Irrigation and Reclamation has reported on propositions to authorize interstate compacts and agreements relative to apportionment of waters for irrigation purposes.

The Committee on Irrigation and Reclamation reported in 1926,[4] a bill granting the consent of Congress to compacts or agreements between the States of Idaho and Wyoming with respect to the division and apportionment of the waters of the Snake River and other streams in which such States are jointly interested.

2034. The disposal of drainage waters from irrigation projects is a subject within the jurisdiction of the Committee on Irrigation and Reclamation and not that of the Committee on Public Lands.

On October 25, 1919,[5] Mr. Carl Hayden, of Arizona, asked unanimous consent that the bill (S. 2610) to provide for the disposal of certain waste and drainage water from the Yuma Project in the State of Arizona, be taken from the Committee on Public Lands and referred to the Committee on Irrigation of Arid Lands, now the Committee on Irrigation and Reclamation.

Mr. Hayden explained that he had consulted the chairmen of the two committees and that both approved the change.

There being no objection, the motion was agreed to and the bill was referred as requested.

2035. Examples of the general jurisdiction of the Committee on Irrigation and Reclamation.

The Committee on Irrigation and Reclamation reported:

In 1926, a bill[6] to authorize payments for municipal improvements on reclamation projects; a bill[7] to provide for an examination and report on the condition and possible development and reclamation of certain swamp lands; and a joint resolution[8] authorizing the Secretary of the Interior to employ engineers for consultation in connection with the construction of dams for irrigation purposes.

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[1] Second session Sixty-second Congress, Report No. 878.

[2] Second session Sixty-seventh Congress, Report No. 883.

[3] Second session Sixty-eighth Congress, Reports No. 1628, 1299.

[4] First session Sixty-ninth Congress, Report No. 1499.

[5] First session Sixty-sixth Congress, Record, p. 7505.

[6] First session Sixty-ninth Congress, Report No. 1493.

[7] Report No. 1304.

[8] Report No. 1292.

In 1922,[1] 1920,[2] and 1917,[3] bills to provide for the application of the reclamation law to irrigation districts.

2036. Recent history of the Committee on Immigration and Naturalization, Section 33 of Rule XI.

Section 33 of Rule XI provides for the reference of subjects relating—

to immigration or naturalization to the Committee on Immigration and Naturalization.

No amendment has been made in this rule since its first adoption in 1893.[4]

The number of members comprising the committee was increased from fourteen to fifteen in 1907,[5] from fifteen to seventeen in 1924,[6] on adoption of rules for the Sixty-eighth Congress, and from seventeen to twenty-one in the revision of 1927.[7]

2037. In later practice, the Committee on Immigration and Naturalization has confirmed its jurisdiction over the subject of naturalization.

Although the Committee on the Judiciary formerly reported bills pertaining to the naturalization of aliens, the Committee on Immigration and Naturalization in recent years has established an exclusive jurisdiction over that subject. Thus it reported:

In 1921,[8] a bill to provide a uniform rule for the naturalization of aliens throughout the United States.

In 1923,[9] a bill relative to the naturalization and citizenship of married women.

In 1925,[10] a bill to supplement the naturalization laws.

In 1926,[11] a bill extending certain privileges to aliens who served honorably in the military or naval forces of the United States during World War.

2038. Establishment of a Bureau of Immigration and Naturalization, and the provision and maintenance of personnel and equipment for administration of the immigration and naturalization laws, are subjects within the jurisdiction of the Committee on Immigration and Naturalization.

The Committee on Immigration and Naturalization reported:

In 1921,[12] a bill amending the act establishing a Bureau of Immigration and Naturalization.

In 1925,[13] a bill providing for the payment of extra compensation to immigration inspectors and other immigration employees for overtime work.

In 1908,[14] a bill to purchase boats for the use of immigration officers.

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[1] Second session Sixty-ninth Congress, Report No. 662.
[2] Second session Sixty-sixth Congress, Report No. 1065.
[3] First session Sixty-fifth Congress, Report No. 93.
[4] First session Fifty-third Congress, Record, p. 477.
[5] First session Sixtieth Congress, Record, p. 356.
[6] First session Sixty-eighth Congress, Record, p. 1143.
[7] First session Seventieth Congress, Record, p. 111.
[8] Third session Sixty-sixth Congress, Report No. 1185.
[9] Second session Sixty-seventh Congress, Report No. 1110.
[10] Second session Sixty-eighth Congress, Report No. 1634.
[11] First session Sixty-ninth Congress, Report No. 157.
[12] Third session Sixty-sixth Congress, Report No. 1185.
[13] Second session Sixty-eighth Congress, Report No. 1512.
[14] First session Sixtieth Congress, Report No. 1042.

2039. The residence, deportation, and readmission of aliens, and the taxation of immigrants admitted to the United States, are subjects within the jurisdiction of the Committee on Immigration and Naturalization.

The Committee on Immigration and Naturalization reported:

In 1922,[1] a bill to provide for the deportation of certain undesirable aliens.

In 1919,[2] a bill to deport undesirable aliens and to deny readmission to those deported.

In 1912,[3] a bill to regulate the immigration of aliens and the residence of aliens in the United States.

In 1910,[4] a resolution relative to the head tax on immigrants admitted to the United States.

2040. The immigration of aliens to Hawaii and Porto Rico is a subject within the jurisdiction of the Committee on Immigration and Naturalization.

The Committee on Immigration and Naturalization reported:

In 1926,[5] a bill exempting from the provisions of the immigration act of 1924 certain Spanish subjects, residents of Porto Rico on April 11, 1899.

On June 21,[6] 1921, Mr. Albert Johnson, of Washington, moved that the joint resolution (H. J. Res. 158) providing for the admission into the Territory of Hawaii of aliens otherwise inadmissible, as the Secretary of Labor may deem necessary to meet the emergency existing in the shortage of agricultural labor, be taken from the Committee on the Territories and rereferred to the Committee on Immigration and Naturalization.

Mr. Finis J. Garrett, of Tennessee, inquired if the motion was made by direction of the Committee on Immigration and Naturalization and after consultation with the Chairman of the Committee on Territories.

Mr. Johnson replied in the affirmative and said:

> I will say that the reference to the Committee on the Territories came about from the fact that various memorials of the Territorial Legislature of Hawaii addressed to Congress were referred, properly as regards most of the memorials, to the Committee on the Territories, but the Immigration Committee believes it has jurisdiction of this joint resolution.

The motion was agreed to and the bill was referred to the Committee on Immigration and Naturalization.

2041. The creation and history of the Committee on Expenditures in the Executive Departments, Section 34 of Rule XI.

The rule gives to the Committee on Expenditures in the Executive Departments jurisdiction of the pay of officers, abolition of useless offices, and the economy and accountability of officers.

The examination of the accounts of the departments, independent establishments, and commissions of the Government, proper application of

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[1] Second session Sixty-seventh Congress, Report No. 867.

[2] First session Sixty-sixth Congress, Report No. 143.

[3] Second session Sixty-second Congress, Report No. 851.

[4] First session Sixtieth Congress, Report No. 481.

[5] First session Sixty-ninth Congress, Report No. 927.

[6] First session Sixty-seventh Congress, Record, p. 2828.

public moneys, enforcement of payment of money due the Government, and economy and retrenchment generally are within the jurisdiction of the Committee on Expenditures in the Executive Departments.

Section 34 of Rule XI provides that—

> The examination of the accounts and expenditures of the several departments, independent establishments, and commissions of the Government and the manner of keeping the same; the economy, justness, and correctness of such expenditures; their conformity with appropriation laws; the proper application of public moneys; the security of the Government against unjust and extravagant demands; retrenchment; the enforcement of the payment of moneys due to the United States; the economy and accountability of public officers; the abolishment of useless offices, shall all be subjects within the jurisdiction of the Committee on Expenditures in the Executive Departments.

This committee was created, December 5, 1927,[1] by the consolidation of the eleven Committees on Expenditures in the Various Departments of the Government, the earliest of which has been in existence since 1816. As adopted in 1816 the rule did not include the committees for the Departments of Interior, Justice, Agriculture, Commerce and Labor. The committees for these departments date, respectively, from 1860, 1874, 1889, 1905[5] and 1913.[3]

The resolution providing for the adoption of the rules of the Seventieth Congress discontinued the several committees on expenditures and transferred their functions to the newly created Committee on Expenditures in the Executive Departments.

On March 17, 1928,[4] the jurisdiction of the committee was further enlarged by the adoption of a resolution, reported from the Committee on Rules, including within its jurisdiction the independent establishments and commissions of the Government.

This committee now consists of twenty-one members.

2042. Examples of the general jurisdiction of the Committee on Expenditures in the Executive Departments.

The Committee on Expenditures on the Executive Departments reported as follows:

In 1933,[5] on executive orders consolidating executive agencies, and the exclusion of certain temporary employees from operation of the economy act.[6]

In 1932, on the Public Works Administration,[7] and requirements that contractors on public buildings name their subcontractors.[8]

In 1931, on authorizations to executive department to do work for other executive departments,[9] the disposition of effects of persons dying in the military

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[1] First session Seventieth Congress, Record, p. 11.

[2] Section 4315 of Vol. IV.

[3] First session Sixty-third Congress, Record, p. 1748.

[4] First session Seventieth Congress, Record, p. 4930.

[5] Second session Seventy-second Congress, Report No. 1833.

[6] Report No. 1989.

[7] First session Seventy-second Congress, Report No. 989.

[8] Report No. 1272.

[9] Third session Seventy-first Congress, Report No. 2201.

service,[1] and the withholding of pay of employees removed for breach of contract to render faithful service.[2]

In 1930, on authorizing appointment of employees in the executive branch of the Government and the District of Columbia,[3] authorizing consolidation and coordination activities affecting war veterans,[4] checking charges on consignments of goods shipped to the Philippines,[5] compensation of the assistant heads of the executive departments,[6] creating a Bureau of Prohibition in the Department of Justice,[7] and retirement of Federal employees.[8]

In 1929, on discontinuation of certain reports required by law to be made to Congress.[9]

In 1928, on the transfer of the returns office from the Department of the Interior to the General Accounting Office.[10]

2043. Bills relating to leaves of absence of officers and clerks of the Government were considered by the several committees on expenditures.

The Committee on Expenditures in the Treasury Department reported in 1920,[11] the bill (S. 3202) granting leaves of absence to officers of the Coast Guard, etc.

2044. Examples of the general jurisdiction of the former expenditures committees.

The several Committees on Expenditures in the Departments of the Government report as follows:

In 1919,[12] the Committee on Expenditures in the War Department reported the resolution (H. Res. 362) providing for the distribution and sale of surplus Army motor vehicles.

In 1911,[13] the Committee on Expenditures in the War Department reported the resolution (H. Res. 343) requesting the Secretary of War to furnish information concerning alleged needless expense of maintaining the Army.

In 1910,[14] the Committee on Expenditures in the Treasury Department reported the bill (H.R. 25503) to provide punishment for falsification of accounts and the making of false reports by persons in the employ of the United States.

In 1909,[15] the Committee on Expenditures in the Post Office Department reported the resolution (H. Res. 475) requesting information from the Postmaster General relative to rents paid for postoffices in the States of Pennsylvania, Florida, California, and Illinois.

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[1] Report No. 2302.
[2] Report No. 2301.
[3] Second session Seventy-first congress, Report No. 1411.
[4] Report No. 951.
[5] Report No. 857.
[6] Report No. 1207.
[7] Report No. 594.
[8] Report No. 105.
[9] Second session Seventieth Congress, Report No. 2575.
[10] First session Seventieth Congress, Report No. 502.
[11] Second session Sixty-sixth Congress, Report No. 588.
[12] First session Sixty-sixth Congress, Report No. 441.
[13] Second session Sixty-second Congress, Report No. 105.
[14] Second session Sixty-first Congress, Report No. 1281.
[15] Second session Sixtieth Congress, Report No. 1912.

In 1908,[1] the Committee on Expenditures in the Treasury Department reported the bill (S. 3495) providing for the transfer of books from the Treasury Department library to life-saving stations of the United States.

2045. Resolutions providing for investigations in the departments of the Government were held to come within the jurisdiction of the several expenditures committees and not the Committee on Rules.

On April 9, 1910,[2] on motion of Mr. John Dalzell, of Pennsylvania, by unanimous consent, the Committee on Rules was discharged from consideration of the resolution (H. Res. 582) providing for an investigation of the office of surveyor of customs and assistant United States treasurer at St. Louis, and the resolution was referred to the Committee on Expenditures in the Treasury Department.

2046. A bill providing for a more expeditious settlement of money claims against the United States was on reconsideration referred to the Committee on Expenditures.

On January 26, 1928,[3] on motion of Mr. William Williamson, of South Dakota, by unanimous consent, the bill (H. R. 190) to provide for the more expeditious settlement of money claims against the United States was transferred from the Committee on the Judiciary, to which originally referred, to the Committee on Expenditures.

2047. Recent history of the Committee on Rules, Section 35 of Rule XI.

Section 35 of Rule XI provides:

> All proposed action touching the rules, joint rules, and order of business shall be referred to the Committee on Rules.

The form of this rule has remained unchanged since the revision of 1880.

Rule X formerly provided[4] for a committee of five members of whom the Speaker should be one, but on March 19, 1910,[5] Mr. George W. Norris, of Nebraska, offered a resolution providing for a committee of eleven to which the Speaker should not be eligible, which committee should be elected by the House and should in turn elect its own chairman.

The yeas and nays being ordered on the question of agreeing to the resolution, the yeas were 191, nays 156, and the resolution was agreed to.

The membership of the Committee was further increased to twelve members, in 1917,[6] by adoption of the resolution offered by Mr. Edward W. Pou, of North Carolina, providing rules for the Sixty-fifth Congress.

2048. Orders or resolutions directing committees of the House to make investigations are considered by the Committee on Rules.

Resolutions or orders for the creation of select committees to make investigations are within the jurisdiction of the Committee on Rules.

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[1] First session Sixtieth Congress, Report No. 1363.

[2] Second session Sixty-first Congress, Record, p. 4986.

[3] First session Seventieth Congress, Record, p. 2081.

[4] See section 4321 of Hinds' Precedents.

[5] Second session Sixty-first Congress, Record, p. 3429.

[6] First session Sixty-fifth Congress, Record, p. 111.

On June 7, 1918,[1] Mr. Charles D. Carter, of Oklahoma, from the Committee on Indian Affairs, called attention to the reference to that committee of the resolution (H. Res. 369) authorizing the Committee on Indian Affairs to investigate the Bureau of Indian Affairs and branches, and asked unanimous consent for its reference to the Committee on Rules.

There being no objection, the motion was agreed to and the resolution was referred to the Committee on Rules.

On January 7, 1908,[2] upon the suggestion of the Speaker,[3] by unanimous consent, the resolution (H. Res. 115) providing for the appointment of a committee to investigate charges of peonage in southern states, was taken from the Committee on the Judiciary, to which it had been originally sent, and was referred to the Committee on Rules.

2049. Resolutions providing appointment of special committees fall within the jurisdiction of the Committee on Rules.

Form of special resolution creating a select committee and fixing its jurisdiction.

On January 3, 1913,[4] Mr. William A. Cullop, of Indiana, moved that the reference of the resolution (H. Res. 757) authorizing the appointment of a special committee to attend the Louisiana Purchase Exposition, be changed from the Committee on Rules to the Committee on Industrial Arts and Expositions.

The question being taken, on a division, the motion was rejected, the yeas 41, nays 62, and the resolution was retained by the Committee on Rules.

On July 31, 1919,[5] the Committee on Rules reported as privileged the resolution (H. Res. 168) providing for a special committee on a budget system which after debate and amendment was unanimously agreed to as follows:

Resolved, That the Speaker of the House of Representatives is authorized and directed to appoint a special committee for the Sixty-sixth Congress, to be known as the Select Committee on the Budget, to which shall be referred for consideration and report all bills, resolutions, and documents for the establishment of a national budget system or proposing changes in present methods of dealing with appropriations, estimates, and expenditures.

The committee shall consist of 12 Members, of whom 7 shall be appointed from the majority party and 5 from the minority party.

The committee or any subcommittee thereof may sit during the sessions or recesses of the House, and may have done such printing and binding as may be necessary in connection with the performance of its duties.

The committees of the House of the Sixty-sixth Congress to which have been referred bills and resolutions dealing with the jurisdiction herein authorized are hereby discharged from the further consideration of such bills and resolutions and the same shall thereupon be referred to the special committee herein provided for.

The committee shall report by bill or otherwise to the House of Representatives with any recommendations it shall choose to make not later than March 1, 1920.

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[1] Second session Sixty-fifth Congress, Record, p. 7491.

[2] First session Sixtieth Congress, Record, p. 510.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] Third session Sixty-second Congress, Record, p. 945.

[5] First session Sixty-sixth Congress, Record, p. 3441; Report No. 192.

2050. Jurisdiction over proposals for the creation of joint committees and commissions has been held, but not invariably, to rest with the Committee on Rules.[1]

The Committee on Rules reported in 1926,[2] the concurrent resolution (H. Con. Res. 4) establishing a joint committee on Muscle Shoals.

On January 17, 1920,[3] Mr. Edward E. Denison, of Illinois, by direction of the Committee on Interstate and Foreign Commerce, asked unanimous consent that this committee be discharged from the further consideration of the concurrent resolution (S. Con. Res. 14) creating a joint committee to make a survey of, and to report on activities of governmental departments, bureaus, and agencies which relate to public health, and that the concurrent resolution be referred to the Committee on Rules.

Mr. Denison said:

I have not consulted the chairman of the Committee on Rules with reference to this. I am a member of the Committee on Interstate and Foreign Commerce, to which this was referred, and I presented it to the committee meeting, and the Committee on Interstate and Foreign Commerce was of the opinion that this resolution should go the Committee on Rules.

The jurisdiction of this matter belongs, as I understand it, to the Committee on Rules, because it calls for the appointment of a joint investigating committee, and it should have been referred to the Committee on Rules in the first instance. Of course, any legislation resulting from it would have to come from the Committee on Interstate and Foreign Commerce. But this is simply a concurrent resolution for the appointment of a joint committee. I understand that that is properly a matter for the Committee on Rules.

After debate, the motion was agreed to and the concurrent resolution was referred to the Committee on Rules.

On January 9, 1920[4] on motion of Mr. Horace M. Towner, of Iowa, by unanimous consent, the joint resolution (S. J. Res. 69) appointing a joint commission to report on conditions in the Virgin Islands, was taken from the Committee on Insular Affairs and referred to the Committee on Rules.

On February 19, 1916,[5] Mr. William C. Adamson, of Georgia, in asking for a change of reference of the joint resolution (S. J. Res. 60) providing for the creation of a joint subcommittee of the commerce committees of the two Houses, from the Committee on Rules to the Committee on Interstate and Foreign Commerce, said:

Mr. Speaker, in order fully to understand the rights of the situation, I ask unanimous consent to change the reference of Senate Joint Resolution 60, which provides for the raising of a joint subcommittee to be composed of the members of the two Commerce Committees of the respective Houses. I understand reference was made to the Committee on Rules with the idea that it was a House resolution to raise a House committee, and therefore involved a change of the rules. I

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[1] Commencing with the first session of the Sixty-ninth Congress and continuing through subsequent Congresses, all resolutions dealing with the creation of committees, joint committees, or commissions were referred to the Committee on Rules, with the exception of those relating to impeachment, which were referred to the Committee on the Judiciary, and those relating to the celebration of centennials or national or international expositions, which were referred to the Committee on the Library.

[2] First session Sixty-ninth Congress, Report No. 360.

[3] Second session Sixty-sixth Congress, Record, p. 1671.

[4] Second session Sixty-sixth Congress, Record, p. 1278.

[5] Second session Sixty-fourth Congress, Record, p. 2828.

respectfully submit that this presents no such case. It would be right if that were true. But this joint resolution is for a statutory committee like the Joint Committee on Printing, and it should go, in my judgment, to the Committee on Interstate and Foreign Commerce, as it relates entirely to the regulation of commerce. I am perfectly wiling, if it is right that the Committee on Rules should deal with the question, but if, under the rules, it should properly come to us, we are willing to do the work. Whatever is right is all we want done. My friend from North Carolina, Mr. Pou, agrees with me in that attitude.

After brief debate, the request was agreed to, by unanimous consent, and the joint resolution was referred to the Committee on Interstate and Foreign Commerce.

On January 27, 1912,[1] on motion of Mr. John T. Watkins, of Louisiana, by unanimous consent, the Committee on Revision of the Laws was discharged from consideration of the joint resolution (H. J. Res. 219) to create a joint committee to continue the consideration of the revision and codification of the laws, and the same was referred to the Committee on Rules.

2051. Recent history of the Committee on Accounts, Section 36 of Rule XI.

Section 36 of Rule XI provides for the reference of subjects——

touching the expenditure of the contingent fund of the House, the auditing and settling of all accounts which may be charged therein by order of the House, the ascertaining of the travel of Members of the House and reporting the same to the Sergeant at Arms, to the Committee on Accounts.

The present form of this rule dates from 1880.[2]

The jurisdiction of the committee was increased by the addition of the functions of the Committee on Acoustics and Ventilation taken over on the discontinuance of that committee in the Sixty-second Congress, and the Committee on Mileage discontinued in the Seventieth Congress.

The membership of the committee was increased from nine to eleven members in the revision of 1911.[3]

This committee reports appropriations from the contingent fund.

2052. Appropriations from the contingent fund reported by the Committee on Accounts are not subject to the point of order that the jurisdiction to report appropriations rests exclusively in the Committee on Appropriations.

On February 25, 1921,[4] Mr. Clifford Ireland, of Illinois, as a privileged matter, reported from this Committee on Accounts the following resolution:

Resolved, That the Committee on the Library of the House of Representatives is hereby authorized and directed to engage an artist of reputation and ability to paint an oil portrait of the late Hon. Theodore M. Pomeroy, of New York, former Speaker of the House of Representatives in the Fortieth Congress, and to place same in the Speaker's Lobby, at a cost not to exceed $2,000, which sum shall be paid out of the contingent fund of the House of Representatives.

Mr. Thomas L. Blanton, of Texas, made the point of order that the Committee on Accounts was not authorized to report the appropriation, as under section 4 of Rule XXI such appropriations were within the jurisdiction of the Committee on Appropriations.

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[1] First session Sixty-second Congress, Report No. 1406.

[2] Second session Forty-sixth Congress, Record, p. 205.

[3] First session Sixty-second Congress, Record, pp. 12, 80.

[4] Third session Sixty-sixth Congress, Record, p. 3892.

Mr. James R. Mann, of Illinois said:

The rule expressly provides that all payments out of the contingent fund go the Committee on Accounts. They can report on the purchase of a portrait or anything else.

After further debate the Speaker [1] overruled the point of order.

2053. Resolutions pertaining to the service of the House are reported by the Committee on Accounts.

The Committee on Accounts reported:

In 1916,[2] a resolution authorizing the establishment of an electoral mechanical voting machine in the House of Representatives.

In 1913,[3] a resolution for fumigation of the hall of the House of Representatives.

In 1924,[4] a resolution for the extermination of pests in the Capitol and office buildings.

2054. Subjects relating to the House restaurant and kitchens, formerly [5] within the jurisdiction of the Committee on Public Buildings and Grounds, have been transferred by the House to the jurisdiction of the Committee on Accounts.

On June 2, 1921,[6] the House agreed to the following resolution, reported as privileged, by Mr. Clifford Ireland, of Illinois, from the Committee on Accounts:

Resolved, That there shall be paid out of the contingent fund of the House such sums as may be necessary to make such alterations and improvements of the rooms occupied by the restaurant of the House of Representatives, and to reequip the restaurant with sanitary fixtures and utensils as may, in the judgment of the Committee on Accounts, be deemed advisable and necessary; and until otherwise ordered by the House the management of the House Restaurant and all matters connected therewith shall be under the direction of the Committee on Accounts.

This resolution was supplemented on January 4, 1922,[7] by the passage of this resolution reported as a privileged matter from the Committee on Accounts:

Resolved, That, pursuant to the authority of the resolution adopted by the House June 2, 1921 (H. Res. 99), placing the management of the House restaurant and all matters connected therewith under the direction of the Committee on Accounts, there shall be paid out of the contingent fund of the House, under regulations prescribed by said committee, such expenses as may be incurred in excess of those defrayed from the proceeds of sales, for the employment of absolutely necessary assistance for the conduct of said restaurant by such business methods as may produce the best results consistent with economical and modern management.

2055. The statutes provide that payments shall be made from the contingent fund only when sanctioned by the Committee on Accounts.

The statutes [8] provide that no payment shall be made from the contingent fund of the House unless sanctioned by the Committee on Accounts. And payments made upon vouchers approved by the committee shall be deemed, held, and

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixty-fourth Congress, Record, p. 10769; Report No. 940.

[3] Third session Sixty-third Congress, Record, p. 3861.

[4] First session Sixty-eighth Congress, Record, p. 6900.

[5] Section 4237 of Hinds' Precedents.

[6] First session Sixty-seventh Congress, Record, p. 2034.

[7] Second session Sixty-seventh Congress, Record, p. 780.

[8] Revised Statutes, section 95.

taken as, and are declared to be, conclusive upon all departments and auditing officers of the Government. However, no payment shall be made from the contingent fund as additional salary or compensation to any officer or employee of the House.

2056. Expenditures from the contingent fund, although payment on certificate of chairman of Disbursing Committee is authorized by resolution, are nevertheless subject to approval of the Committee on Accounts.

On April 1, 1910,[1] Mr. J. Van Vechten Olcott, of New York, requested unanimous consent for the consideration of this resolution:

Resolved, That the select committee appointed by the Speaker on March 30, 1910, under House resolution 543, or any subcommittee thereof, be, and it hereby is authorized to sit during the sessions of the House, to have such printing and binding done as may be necessary in the transaction of its business, to administer oaths, and to employ such clerical, messenger, and stenographic assistance as it shall deem necessary. All expenses hereunder shall be paid on the certificate of the chairman of the committee out of the contingent fund of the House.

Mr. Charles L. Barlett, of Georgia, reserving the right to object, said:

Mr. Speaker, I call the attention of the House and of the gentleman from New York to the fact that this resolution provides for payment out the contingent fund for the expenses of this committee upon certification by the chairman of the committee. The statute law of the United States provides that payment out of the contingent fund of the House shall only be upon approval by the Committee on Accounts.

Mr. James R. Mann, of Illinois, explained:

It would still require the action of the Committee on Accounts. This is very like a resolution which was passed in reference to the pulp and paper investigation. In that case I, as chairman of the committee, certified the accounts to the Committee on Accounts, and they were passed upon by that committee, and, if proper, were O.K.'ed by that committee and transferred to the proper disbursing officer.

Thereupon, Mr. Bartlett withdrew his reservation and the resolution was considered and unanimously agreed to.

2057. The employment of persons in the service of the House having been authorized, resolutions designating individuals to fill such positions are not necessarily reported by the Committee on Accounts.

Instance wherein payment of salary was made retroactive in compensation of service actually rendered.

On May 19, 1919,[2] at the organization of the House, a resolution authorizing the employment of six minority employees, including one Kenneth Romney, was agreed to.

Subsequently, on February 20,[3] 1920, Mr. Benjamin G. Humphreys, of Mississippi, asked unanimous consent for the consideration of the following resolution:

Resolved, That William E. Kenney be, and he is hereby, appointed a special messenger and assistant pair clerk to fill the vacancy caused by the resignation of Kenneth Romney, named in the resolution adopted by the House May 19, 1919, to be effective from September 16, 1919.

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[1] Second session Sixty-first Congress, Record, p. 4146.

[2] First session Sixty-sixth Congress, Record, p. 9.

[3] Second session Sixty-sixth Congress, Record, p. 3185.

Mr. Walsh, of Massachusetts, under a reservation of the right to object, submitted that the resolution was within the jurisdiction of the Committee on Accounts, and should have been presented by the chairman of that committee.

Mr. Humphreys explained:

This is one of the minority employees that were provided for in the resolution adopted on the 19th of May, when the House organized. Mr. Romney was named in that resolution for this place. Mr. Romney was formerly in the office of the Sergeant at Arms, and at the request of the Sergeant at Arms he remained there for some little while, up until the 19th of September, whatever the date here shows. Another young man was put in the place temporarily to fill that place. It then developed that the Sergeant at Arms was going to retain Mr. Romney permanently in his office, and he so notified us, and this is to fill that place. It is one of the regular minority places.

This has not been referred to the Committee on Accounts. It would not belong to the Committee on Accounts.

Mr. James R. Mann, of Illinois, continued:

He is one of the minority employees. The custom for years has been at the organization of a Congress for the minority to offer a resolution for the employment of the person. This changes the designation of the person, not of the office.

Whereupon, Mr. Walsh withdrew his objection, and the resolution was agreed to.

2058. The Committee on Accounts has, on occasion, been designated as the committee through which the recommendations of the majority party should be presented in the House.

On May 9, 1911,[1] Mr. John C. Floyd, of Arkansas, from the Committee on Accounts, submitted a report on the resolution (H. Res. 128) declaring vacant certain offices in the House, in which reference is made to the action of a caucus of the Democratic Party held on April 1, 1911, designating the Committee on Accounts as the committee properly to make recommendations to the House carrying out the wishes of the caucus.

2059. History of the former Committee on Mileage.

Section 49 of Rule XI formerly proviced that—

the ascertaining of the travel of Members of the House shall be made by the Committee on Mileage and reported to the Sergeant at Arms.

There was no change in the rule fixing the jurisdiction of this committee from its adoption in 1880[2] until its discontinuance in 1927,[3] when its duties were transferred to the Committee on Accounts.

The committee consists of five Members.

2060. Recent history of the Committee on the Census, section 37 of Rule XI.

Section 37 of Rule XI provides that the Committee on the Census shall have jurisdiction of—

all proposed legislation concerning the census and the apportionment of Representatives.

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[1] First session Sixty-second Congress, Record, p. Report No. 25.

[2] Second session Forty-sixth Congress, Record, p. 205.

[3] First session Seventieth Congress, Record, p. 11.

The rule defining the jurisdiction of this committee has remained unchanged since its first adoption in 1901.[1]

The committee was increased from fourteen to sixteen Members in 1907,[2] from sixteen to seventeen Members in 1924,[3] and from seventeen to twenty-one Members in 1927.[4]

2061. Bills providing for the collection or publication of general statistics have been considered by the Committee on the Census.

The Committee on the Census reported:

In 1924,[5] bills providing for a census of cotton bales; and authorizing the Director of the Census to collect and publish statistics [6] of cotton.

In 1920,[7] a bill providing for the collection and publication of monthly statistics on hides, skins, and leather.

On February 4, 1914,[8] Mr. William N. Baltz, of Illinois, moved that the bill (H.R. 10942) providing for the furnishing of information as to the yield of grain, be taken from the Committee on Agriculture to which originally referred and sent to the Committee on the Census. Mr. Baltz explained that he had consulted with the chairmen of both committees and they concurred in his opinion that the bill came within the jurisdiction of the latter committee.

There being no objection, the request was granted and the bill was referred to the Committee on the Census.

2062. History of the former Committee on Industrial Arts and Expositions.

Section 52 of Rule XI formerly provided that the Committee on Industrial Arts and Expositions shall have jurisdiction of—

all matters (excepting those relating to the revenue and appropriations) referring to proposed expositions.

This rule was amended in 1911 [9] by eliminating the reference to the Centennial of the Louisiana Purchase, which had been included in the rule from the time of its original adoption in 1901.[10]

The committee consisted of sixteen Members, no change having been made in the number constituting the committee from its organization until its discontinuance in 1927.[11]

The former jurisdiction of the committee is now largely exercised by the Committee on Foreign Affairs.

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[1] First session Fifty-seventh Congress, Record, p. 45.
[2] First session Sixtieth Congress, Record, p. 356.
[3] First session Sixty-eighth Congress, Record, p. 1143.
[4] First session Seventieth Congress, Record, p. 11.
[5] First session Sixty-eighth Congress, Report No. 406.
[6] First session Sixty-eighth Congress, Report No. 255.
[7] Second session Sixty-sixth Congress, Record, p. 8538.
[8] Second session Sixty-third Congress, Record, p. 2887.
[9] First session Sixty-second Congress, Record, pp. 13, 80.
[10] First session Fifty-seventh Congress, Record, p. 45.
[11] First session Seventieth Congress, Record, p. 11.

2063. Examples of the jurisdiction exercised by the Committee on Industrial Arts and Expositions.

The Committee on Industrial Arts and Expositions reported:

In 1916,[1] a joint resolution authorizing the transfer of the Government exhibit, or such portion thereof as the President may determine advisable, then at the Panama-California International Exposition at San Diego, California, to the Mississippi Centennial Exposition at Gulfport, Mississippi.

In 1913,[2] a resolution providing for the appointment of a Committee of the House of Representatives to attend and represent the House at the dedication and unveiling of a statue of Thomas Jefferson at Saint Louis, Missouri, on April 30, 1913, in commemoration of the acquisition of the Louisiana Territory.

In 1911,[3] a bill providing for the celebration of the completion and opening of the Panama Canal by the United States by holding an international exposition of arts, industries, manufactures, and the products of the soil, mines, forest, and sea, in the city of New Orleans; and a resolution requesting the President to invite foreign nations to participate in the celebration of the completion of the Florida East Coast Railway Co.'s line connecting the mainland of Florida with Key West.[4]

In 1910,[5] a bill to promote the erection of a memorial in conjunction with Perry's Victory centennial celebration on Put in Bay Island during the year 1913, in commemoration of the one hundredth anniversary of the battle of Lake Erie and the northwestern campaign of Gen. William Henry Harrison in the War of 1812.

2064. Proposed legislation relating to foreign expositions was held by the House to belong to the jurisdiction of the Committee on Industrial Arts and Expositions rather than to that of the Committee on Foreign Affairs.

On May 15, 1922,[6] Mr. John Jacob Rogers, of Massachusetts, moved to suspend the rules and pass the joint resolution (S. J. Res. 173) authorizing the President to appoint a commission to represent the Government of the United States at the centennial celebration of the independence of Brazil, which had been reported by the Commission on Foreign Affairs.

Mr. Oscar E. Bland, of Indiana, in debating the motion, protested that the resolution belonged to the jurisdiction of the Committee on Industrial Arts and Expositions and submitted the following summary of precedents in support of that contention:

JURISDICTION OF INTERNATIONAL EXPOSITIONS

58–3. Select Committee on Industrial Arts and Expositions reported the bill (H. R. 15591) providing for the Jamestown Exposition; also the bill H. R. 19203, which became the law.

Lewis and Clark Exposition concurrent resolution. Industrial Arts and Expositions. Reported.

Liege Exposition. Select Committee on Industrial Arts and Expositions.

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[1] First session Sixty-fourth Congress, Report No. 1006.

[2] Third session Sixty-second Congress, Report No. 11442.

[3] Third session Sixty-first Congress, Report No. 1989.

[4] First session Sixty-second Congress, Report No. 64.

[5] Third session Sixty-first Congress, Report No. 1804.

[6] Second session Sixty-seventh Congress, Record, pp. 6995, 7001.

Louisiana Purchase Exposition. Select Committee on Industrial Arts.

59–1. Jamestown Tercentennial. The bill (H. R. 12610) to authorize United States to participate. Industrial Arts and Expositions.

Tampa, Fla. House Concurrent Resolution 28. Industrial Arts and Expositions.

Milan, Italy. Appropriation to enable United States to participate; also the bill H. R. 17458. Industrial Arts and Expositions; and also the bill H. R. 18079. Industrial Arts and Expositions.

San Francisco. The bill H. R. 10698. Industrial Arts and Expositions.

59–2. House Joint Resolution 213; special commission to investigate feasibility of proposed exposition. Industrial Arts and Expositions.

International Maritime Exposition at Bordeaux, France. President's message referred to Merchant Marine and Fisheries. Item carried in an appropriation bill.

60–1. Alaska-Yukon Exposition. The bill H. R. 10530. Select Committee on Industrial Arts and Expositions.

Tokyo Exposition. House Joint Resolution 81, accepting invitation to participate; also the bill (H. R. 16511) providing for participation. Industrial Arts and Expositions.

International Mining Exposition at New York. The bill H. R. 7659. Industrial Arts and Expositions.

Exposition at Quito, Ecuador. The bill S. 4633. Referred to Appropriations Committee.

60–2. Alaska-Yukon Exposition. The bills H. R. 27603 and 27931. Industrial Arts and Expositions.

House Joint Resolutions 243 and 257, to invite Great Britain and France to participate in proposed tercentenary celebration of discovery of Lake Champlain. Foreign Affairs.

H. R. 27882. Participation of United States in exposition at Tokyo. Industrial Arts and Expositions.

H. R. 27818. Participation of United States in exposition at Brussels, Belgium, reported by Foreign Affairs. (Record, p. 3814.) The bill H. R. 27824, regarding Brussels, Belgium. Industrial Arts and Expositions.

61–1. Alaska-Yukon Pacific Exposition. House Concurrent Resolutions 13, 16, and 17, accepting invitation to attend. Industrial Arts and Expositions.

The bill H. R. 10435, for participation in Universal and International Exposition at Brussels in 1910. Foreign Affairs.

61–2. Commission to attend celebration of centennial of Republic of Mexico. House Joint Resolutions 205, 208, and 232. Foreign Affairs.

House Joint Resolution 88. Commission to investigate advisability of holding a Negro centennial. Reported by Industrial Arts and Expositions.

Panama-California Exposition, 1915. House Joint Resolution 73, to invite foreign nations to attend and participate. Foreign Affairs.

61–3. Authorizing President to invite nations to send ships to an exposition. House Joint Resolution 265. Foreign Affairs.

Perry's Victory Centennial Celebration. The bill H. R. 29503. Industrial Arts and Expositions.

World's Panama Exposition. The bill H. R. 29362. Industrial Arts and Expositions.

Panama-Pacific Exposition. House Joint Resolution 213, authorizing President to invite nations to participate in. Foreign Affairs.

62–1. Florida East Coast Railway Co.; requesting President to invite nations to participate in celebration of the completion of. Industrial Arts and Expositions.

House Joint Resolution 99, authorizing President to invite nations to participate in Panama-California Exposition. Industrial Arts and Expositions.

62–1. House Joint Resolution 119, authorizing President to appoint Panama-Pacific International Exposition commissioners. Industrial Arts and Expositions.

62–2. Fifth National Corn Exposition at Columbia, S. C. Industrial Arts and Expositions House Joint Resolution 224, authorizing acceptance of invitation to participate in a universal and international exhibition at Ghent, Belgium. Foreign Affairs.

62–3. National Conservation Exposition at Knoxville, Tenn. The bill H. R. 26190. Industrial Arts and Expositions.

Committee to attend unveiling of statue of Jefferson at St. Louis. House Resolution 799. Industrial Arts and Expositions.

Panama-Pacific Exposition. The bill H. R. 27876. Industrial Arts and Expositions.

The bill H. R. 19224. Permanent exhibit of resources of United States at Washington, D.C. Industrial Arts and Expositions. (Reported.)

63–2. House Joint Resolution 204, authorizing Secretary of Agriculture to make exhibits at Forest Products Expositions to be held in Chicago and New York. (Reported.)

The bill H. R. 15732, to install Government irrigation exhibit at Panama-California Exposition. Industrial Arts and Expositions. Panama-Pacific Exposition.

The bill H. R. 18663. Installation of exhibits. Industrial Arts and Expositions.

The bill S. 6454. Installation of exhibits. Industrial Arts and Expositions.

The bill H. R. 16327. Appropriation for erection of building. Industrial Arts and Expositions.

The bill H. R. 10737. Protection of copyrights. Patents.

The bill H. R. 16828. Coins for. Coinage, Weights, and Measures.

Sixth National Corn Exposition. House Concurrent Resolution 17. Industrial Arts and Expositions.

House Joint Resolution 302, to invite nations to participate in Washington naval orange industry celebration. Foreign Affairs.

House Joint Resolution 292, authorizing the President to accept and invitation to participate in City of Panama Exposition. Foreign Affairs.

63–2. Senate Joint Resolution 151, authorizing President to accept invitation to participate in international exposition of sea-fishery industries. Foreign Affairs.

House Joint Resolution 264, authorizing President to accept invitation to participate in Sixth International Congress of Chambers of Commerce and Commercial and Industrial Association. Foreign Affairs.

63–3. Panama-California Exposition. House Joint Resolution 3 and Senate Joint Resolution 329, to detail officer of Army at. Military Affairs.

64–1. House Joint Resolution 252, authorizing transfer of Government exhibit from Panama-California Exposition at San Diego to Mississippi Centennial Exposition. Industrial Arts and Expositions.

House Joint Resolution 253, authorizing President to invite Latin-American nations to participate in exposition. Foreign Affairs.

Panama-California Exposition. House Joint Resolution 3 and Senate Joint Resolution 38. To transfer Government exhibit from Panama-Pacific to Panama-California. Industrial Arts and Expositions.

Panama-Pacific Exposition. The bill H. R. 6855. Free importation of articles for. Ways and Means.

Senate Joint Resolution 133 and House Joint Resolution 235. Thanking foreign Governments for participating in. Foreign Affairs.

67–1. Senate Joint Resolution 34, authorizing the President to appoint commission to attend first centennial of Peru. Foreign Affairs.

House Joint Resolution 200 and Senate Joint Resolution 114. Accepting invitation to participate in exposition at Rio de Janeiro in 1922. Industrial Arts and Expositions.

The question on agreeing to the motion to suspend the rule and pass the bill being taken, and two-thirds failing to vote in the affirmative, the House refused to suspend the rules and pass the bill.

Thereupon, Mr. Bland offered the following motion:

Mr. Bland of Indiana moves to suspend the rules, discharge the Committee of the Whole House on the state of the Union and the Committee on Foreign Affairs from further consideration of Senate Joint Resolution 173, House Joint Resolution 286, and House Joint Resolution 292 and refer the same to the Committee on Industrial Arts and Expositions.

The question being put, the Speaker announced that two-thirds had voted in the affirmative and the rules were suspended and the motion was agreed to.

2065. The creation and history of the Committee on Roads, Section 38 of Rule XI.

The rule gives to the Committee on Roads jurisdiction on "Matters relating to the construction or maintenance of roads, other than appropriations therefor."

The rule provides that it shall not be in order for any bill providing general legislation in relation to roads to contain any provisions for any specific road, nor for any bill in relation to a specific road to embrace a provision in relation to any other specific road.

Section 38 of Rule XI provides that matters relating—

to the construction or maintenance of roads, other than appropriations therefor—to the Committee on Roads: *Provided,* That it shall not be in order for any bill providing general legislation in relation to roads to contain any provision for any specific road, nor for any bill in relation to a specific road to embrace a provision in relation to any other specific road.

This committee consists of twenty-one Members.

This rule was adopted in its present form, including the proviso, on June 2, 1913.[1]

The resolution established the committee as a new standing committee and provided for a membership of twenty-one members.

2066. Legislation authorizing Federal aid to the States in the construction of rural post roads and Federal highways is within the jurisdiction of the Committee on Roads.

The Committee on Roads reported:

In 1914,[2] 1916,[3] 1920,[4] 1921,[5] and 1922[6] bills authorizing aid to the States in the construction of rural post roads.

In 1921,[7] the Federal Highway Act, providing for Federal aid to the States in the construction and maintenance of highways, forest roads, trails, and rural post roads.

2067. The construction and maintenance of post roads are subjects within the jurisdiction of the Committee on Roads and not the Committee on the Post Office and Post Roads.

On March 18, 1924,[8] the Speaker[9] announced that he had consulted with the Chairman of the Committee on Post Office and Post Roads and the Chairman of the Committee on Roads and that both conceded the bill (H. R. 63) to amend the Federal highway act relative to Federal aid in the construction and maintenance of post roads, to be within the jurisdiction of the latter committee rather than the

[1] First session Sixty-third Congress, Record, p. 1856.
[2] Second session Sixty-third Congress, Report No. 168.
[3] First session Sixty-fourth Congress, Report No. 26.
[4] Second session Sixty-sixth Congress, Report No. 1053.
[5] Third session Sixty-sixth Congress, Report No. 1268.
[6] Second session Sixty-seventh Congress, Report No. 878.
[7] First session Sixty-seventh Congress, Report No. 162.
[8] First session Sixty-eighth Congress, Record, p. 4444.
[9] Frederick H. Gillett, of Massachusetts, Speaker.

former, to which it had been erroneously referred, and asked unanimous consent that its reference be changed. There being no objection, the Committee on Post Office and Post Roads was discharged from further consideration of the bill, and it was referred to the Committee on Roads.

On December 19, 1913,[1] at the instance of the Speaker,[2] by unanimous consent, the Committee on Post Office and Post Roads was discharged from consideration of the bill (H. R. 10849) to provide for the construction and maintenance of rural post roads, and the bill was referred to the Committee on Roads.

2068. A bill providing for the establishment of a Memorial National Highway and authorizing Federal aid therefor was held to belong to the Committee on Roads and not the Committee on Agriculture.

On April 28, 1914,[3] Mr. William P. Borland, of Missouri, moved that the bill (H. R. 2864) to be known as the Daughters of the American Revolution old trails act, to provide a national ocean-to-ocean highway over the pioneer trails of the nation, and to aid the States through which the highway shall run in extending, constructing, rebuilding, and repairing same, be taken from the Committee on Agriculture and referred to the Committee on Roads.

Mr. James R. Mann, of Illinois, rising to a parliamentary inquiry, asked if the Committee on Roads had jurisdiction to report this bill.

The Speaker[2] said:

> Originally all the road bills went to the Committee on Agriculture, as far as I can ascertain. Both Committees were claiming jurisdiction, and so the Chair took occasion to study the matter up and made up his mind to refer all roads bills to the Committee on Roads except those that came under that specific prohibition as to making appropriations. It really does not make much difference which committee it goes to, providing they all go to the same one. Without objection, the change of reference will be made.

The motion was then agreed to and the bill was referred to the Committee on Roads.

2069. The creation and history of the Committee on Flood Control, section 39 of Rule XI.

The rule gives to the Committee on Flood Control jurisdiction of subjects relating "to flood control, other than appropriations therefor."

Section 39 of Rule XI provides for the reference of subjects relating—

> to flood control, other than appropriations therefor, to the Committee on Flood Control.

This committee is composed of fifteen Members.

It was created February 3, 1916,[4] by the adoption of a resolution presented by Mr. Finis J. Garrett, of Tennessee, from the Committee on Rules.

The Committee reports on subjects formerly under the jurisdiction of the Committee on Rivers and Harbors, which had been exercised in part by the Committee on Levees and Improvements on the Mississippi River prior to the discontinuance of that committee in 1911.[5]

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[1] Second session Sixty-third Congress, Record, p. 1232.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Sixty-third Congress, Record, p. 7375.

[4] First session Sixty-fourth Congress, Record, p. 2067.

[5] First session Sixty-second Congress, Record, pp. 12, 80.

2070. The Committee on Flood Control has reported legislation authorizing surveys and construction with a view to flood control.

The Committee on Flood Control reported:

In 1919,[1] a bill authorizing the Secretary of War to make a survey of the Colorado River with a view to controlling the flood waters of that stream.

In 1920,[2] a bill authorizing the construction of flood control and improvement works in the Minnesota River and Big Stone Lake.

In 1921,[3] a bill to provide a preliminary survey of the Puyallup River, Washington, with a view to the control of its flood.

In 1926,[4] a bill to provide for the survey of sundry streams with a view to the control of flood waters.

2071. Plans for flood protection and the extent to which the United States should cooperate with the States therein are subjects within the jurisdiction of the Committee on Flood Control rather than of the Committee on Rivers and Harbors.

On March 13, 1918,[5] the Speaker[6] called attention to a letter from the Secretary of War transmitting a report on a preliminary examination of the Red River and it tributaries, with a view to devising plans for flood protection and determining the extent to which the United States should cooperate with the States, which letter had, on January 21, been referred to the Committee on Rivers and Harbors, and asked consent for its reference to the Committee on Flood Control.

There was no objection and the reference was changed to the latter committee.

2072. On June 26, 1917,[7] the House was considering the River and Harbor Bill in the Committee of the Whole House on the state of the Union, when Mr. John H. Small, of North Carolina, offered the following as a committee amendment:

Black River, Ark. and Mo., above Black Rock, Ark., an instrumental survey with a view to preparing plans and estimates of cost for an improvement looking to the diversion of the flood waters of the St. Francis Basin to the basin of the Black River, and to determine what would be the effect upon the navigation of the two rivers if such diversion should be made.

Mr. Benjamin G. Humphreys, of Mississippi, having raised a point of order against the proposed amendment, the Chairman[8] ruled:

The Chair thinks that the rule is plainly laid down that the Rivers and Harbors Committee is a committee, under Rule XI, section 56, with power to report the rivers and harbors bill at any time. It has a privilege that is beyond the Flood Control Committee. This bill, if offered in the House as a separate bill, would have been referred to the Flood Control Committee, and if the Rivers and Harbors Committee had made complaint about it they could have made a motion in the House and had it referred from the Flood Control Committee to the Rivers and Harbors Committee.

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[1] Third Session Sixty-fifth Congress, Report No. 1149.

[2] Second session Sixty-sixth Congress, Report No. 770.

[3] First session Sixty-seventh Congress, Report No. 184.

[4] First session Sixty-ninth Congress, Report No. 771.

[5] Second session Sixty-fifth Congress, Record, p. 3446.

[6] Champ Clark, of Missouri, Speaker.

[7] First session Sixty-fifth Congress, Record, p. 4319.

[8] Mr. Pat Harrison, of Mississippi, Chairman.

But this provision now offered is the first time that it can be objected to. The question could not have been objected to sooner.

The bill would be reported not as a privileged bill but as bills of ordinary character. This amendment has never been introduced until now, and could not have been objected to sooner.

It is offered as a committee amendment; it is put on a privileged bill, and the Chair does not think that the Committee on Rivers and Harbors has jurisdiction of this question in this bill, but that since the creation of the Flood Control Committee that committee has jurisdiction of it. They are not permitted under the rules of the House to report at any time as the Rivers and Harbors Committee is permitted.

The Chair sustains the point of order.

2073. A bill authorizing an appropriation for the straightening and broadening of a river for the purpose of relieving flood conditions was referred to the Committee on Flood Control.

On May 30, 1910,[1] on motion of Mr. Charles Finley, of Kentucky, by unanimous consent, the bill (H. R. 11231) to authorize an appropriation for the straightening and broadening of the Cumberland River east of the city of Barbourville, in Knox County, Ky., was transferred from the Committee on Rivers and Harbors to the Committee on Flood Control.

2074. History of the former Committee on Woman Suffrage.

The rule gave to the Committee on Woman Suffrage jurisdiction of "All proposed action touching the subject of woman suffrage."

Section 51b of Rule XI formerly provided for reference of

all proposed action touching the subject of woman suffrage—to the Committee on Woman Suffrage.

This committee consisted of thirteen Members.

It was made a standing committee on September 24, 1917,[2] on adoption of a resolution reported by Mr. Edward W. Pou, of North Carolina, by direction of the Committee on Rules. It was abolished in 1927[3] in the adoption of the rules of the Seventieth Congress.

2075. Resolutions proposing Constitutional amendments relating to woman suffrage formerly came within the jurisdiction of the Committee on Woman Suffrage.

The Committee on Woman Suffrage reported on May 20, 1919,[4] the joint resolution (H. J. Res. 1) proposing an amendment to the Constitution extending the right of suffrage to women.

2076. Legislation relating to the extension of woman suffrage in the Territories was formerly held to be within the jurisdiction of the Committee on Woman Suffrage and not the Committee on the Territories.

On March 14, 1918,[5] Mr. John E. Raker, of California, asked unanimous consent that the bill (H. R. 4665) granting the right of suffrage to the women of Hawaii,

[1] Second session Seventy-first Congress, Record, p. 8361.

[2] First session Sixty-fifth Congress, Record, p. 7369.

[3] First session Seventieth Congress, Record, p. 11.

[4] First session Sixty-sixth Congress, Report No. 1

[5] Second session Sixty-fifth Congress, Record, p. 3491.

be transferred from the Committee on the Territories to the Committee on Woman Suffrage.

Mr. Albert Johnson, of Washington, from the Committee on the Territories, objected, and thereupon, Mr. Raker, by direction of the Committee on Woman Suffrage, moved that the Committee on the Territories be discharged from the further consideration of the bill and that it be referred to the Committee on Woman Suffrage.

Mr. Joseph Walsh, of Massachusetts, moved that the motion be laid on the table, and the yeas and nays being ordered, the House declined to lay the motion on the table; yeas 64, nays 268.

The question recurring on the motion to change the reference of the bill, it was decided in the affirmative and the bill was referred to the Committee on Woman Suffrage.

On March 23, 1918,[1] on motion of Mr. John E. Raker, of California, by unanimous consent the bill (S. 2380) granting to the legislature of the Territory of Hawaii additional powers relative to elections and qualifications of electors, and pertaining to the extension of woman suffrage, was taken from the Committee on the Territories and referred to the Committee on Woman Suffrage.

2077. The creation and history of the Committee on World War Veterans' Legislation, section 40 of Rule XI.

Section 40 of Rule XI provides for the reference of subjects relating—

to war-risk insurance of soldiers, sailors, and marines, and other persons in the military and naval service of the United States during or growing out of the World War, the United States Veterans Bureau, the compensations and allowances of such persons and their beneficiaries, and all legislation affecting them other than civil service, public hands, adjusted compensations, pensions, and private claims to the Committee on World War Veterans' Legislation.

This committee was established as a new committee, January 18, 1924,[2] at the time of the adoption of the rules for the Sixty-eighth Congress.

It consists of twenty-one Members, having been increased from nineteen, the day[3] following the adoption of the organic resolution.

2078. Examples of the general jurisdiction of the Committee on World War Veterans' Legislation.

The Committee on World War Veterans' Legislation reported:

In 1924,[4] a bill amending the war risk insurance act.

In 1926,[5] a bill amending the World War Veterans' act.

In 1924,[6] a bill amending and modifying the vocational rehabilitation act, the war risk insurance act, and the act establishing the Veterans' Bureau.

In 1926,[7] a bill making eligible for retirement under certain conditions, officers, and former officers of the World War, other than officers of the Regular Army, who incurred physical disability in line of duty.

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[1] Second session Sixty-fifth Congress, Record, p. 3966.

[2] First session Sixty-eighth Congress, Record, p. 1143.

[3] Record, p. 1157.

[4] First session Sixty-eighth Congress, Report No. 1028.

[5] First session Sixty-ninth Congress, Report No. 515.

[6] First session Sixty-eighth Congress, Report No. 589.

[7] First session Sixty-ninth Congress, Record, p. 536.

2079. Legislation authorizing hospital facilities for soldiers, sailors, and marines is within the jurisdiction of the Committee on World War Veterans' Legislation.[1]—The Committee on World War Veterans' Legislation reported:

In 1927[2] and 1925[3] bills authorizing hospitals and outpatient facilities for ex-service men.

In 1930[4] and 1924[5] bills providing for additional hospital facilities for former service men.

2080. The creation and history of the Committee on Memorials, section 40a of Rule XI.

The rule provides for the observance of a memorial day in memory of recently deceased Members of the House and Senate, and the publication of the proceedings thereof.

Section 40a of Rule XI provides for arrangement of—

A suitable program for each memorial day observed by the House of Representatives as a memorial day in memory of Members of the Senate and House of Representatives who have died during the preceding period, and to arrange for the publication of the proceedings thereof.

This committee is composed of three Members.

The resolution establishing the Committee on Memorials was agreed to January 3, 1929,[6] and superseded the practice followed since the First Congress. Prior to that time it had been the custom to hold a separate memorial service in honor of each Member who died during the session or the recess preceding it. These services were held in the Hall of the House at such time as might be designated, usually on Sunday, and the proceedings on such occasions were printed in the Record and later distributed in book form as a part of the proceedings of the House. Since the adoption of the rule individual services have been abandoned and one general service is held each session in honor of all who have died in the interim.

2081. Recent history of the Joint Committee on the Library, section 41 of Rule XI.

Section 41 of Rule XI provides for the reference of matters—

touching the Library of Congress, statuary, and pictures to the Joint Committee on the Library.

This Committee has five Members of the House.

There has been no change in the rules or the law affecting the jurisdiction or membership of this committee since the increase by law in 1902[7] of the number constituting the committee.

2082. Bills relating to statues, paintings, and other works of art have been reported by the House branch of the Joint Committee on the Library.

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[1] See 1969 of this volume.

[2] Second session Sixty-ninth Congress, Report No. 2133.

[3] Second session Sixty-eighth Congress, Report No. 1509.

[4] Second session Seventy-first Congress, Report 38.

[5] First session Seventieth Congress, Report No. 1222.

[6] Second session Seventieth Congress, Record, p. 1081.

[7] First session Fifty-seventh Congress, Record, p. 1312.

On January 6, 1908,[1] the resolution (H. Res. 43) distributing to the committees the annual message of the President, provided "that so much as relates to statuary and pictures be referred to the Joint Committee on the Library."

The Committee on the Library reported:

In 1910,[2] a joint resolution authorizing the President to convey thanks to the Government of Italy for certain gifts of rare works of art.

In 1910,[3] a resolution directing the Committee on the Library to employ competent artists to paint the portraits of certain former Speakers of the House.

In 1926,[4] a joint resolution authorizing the Joint Committee on the Library to procure an oil painting of the late President Harding; and a joint resolution[5] to secure a replica of the Houdon bust of Washington for lodgement in the Pan American Building.

2083. The arrangement of the Hall of the House and Statuary Hall, and the acceptance of works of art to be placed therein are subjects within the jurisdiction of the House branch of the Joint Committee on the Library.

The Committee on the Library reported:

In 1908,[6] a resolution directing the Architect of the Capitol to rearrange the Hall of the House of Representatives and the seating arrangements therein.

In 1908,[7] a bill authorizing the President to invite the States to place statues in Statuary Hall, and providing for care for the same.

2084. The general affairs of the Smithsonian institution, excepting appropriations therefor, and the incorporations of similar institutions, are within the jurisdiction of the House branch of the Joint Committee on the Library.

The Committee on the Library reported:

In 1926,[8] a joint resolution providing for the appointment of a regent of the Smithsonian Institution.

In 1910,[9] bills for the incorporation of the National Institute of Arts and Letters and the American Academy.

2085. Subjects relating to memorials in commemoration of individuals have been considered by the House branch of the Joint Committee on the Library.

Bills providing for location and construction of memorials belong to the jurisdiction of the Joint Committee on the Library rather than the jurisdiction of the Committee on Appropriations.

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[1] First session Sixtieth Congress, Record, pp. 477, 510.

[2] Second session Sixty-first Congress, Record, p. 127.

[3] Report No. 376.

[4] First session Sixty-ninth Congress, Report No. 1181.

[5] Report No. 40.

[6] First session Sixtieth Congress, Report No. 1688.

[7] Report No. 1108.

[8] First session Sixty-ninth Congress, Report No. 28.

[9] Second session Sixty-first Congress, Reports Nos. 475, 476.

The Committee on the Library reported:

In 1926,[1] a joint resolution to authorize the completion of the memorial to the unknown soldier; a bill[2] for the erection of a memorial to Virginia Dare, the first child of English parentage to be born in America; a joint resolution[3] authorizing a statue of Albert Gallatin in the City of Washington; and a bill[4] authorizing an appropriation for the erection of a tablet to commemorate the landing of Roger Williams in the State of Rhode Island.

In 1908, a resolution[5] providing for the printing of a memorial to Pelatiah Webster in commemoration of his plan of the Constitution published February 6, 1783.

In 1909,[6] a joint resolution authorizing the selection of a site for the erection of the Alexander Hamilton memorial in Washington, D.C.

On December 19, 1912,[7] following the approval of the Journal, Mr. James L. Slayden, of Texas, by direction of the Committee on the Library, moved that the Committee on Appropriations be discharged from the further consideration of the concurrent resolution (S. Con. Res. 32) providing as follows:

> That the plan, design, and location for a Lincoln Memorial, determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled "An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln," approved February 9, 1911, be, and the same are hereby, approved.

and that the concurrent resolution be referred to the Committee on the Library.

The question being taken, Mr. William P. Borland, of Missouri, made the point of order that a quorum was not present.

Whereupon, on motion of Mr. Martin D. Foster, of Illinois, the House voted, on a division, to adjourn, yeas 51, nays 35.

On January 2, 1913,[8] after the reading of the Journal, Mr. Slayden made the same motion, when the House again adjourned.

On the following day,[9] immediately after the reading and approval of the Journal, Mr. Slayden again renewed the motion. The question being submitted to the House, and the yeas and nays being demanded and ordered, it was decided in the affirmative, yeas 102, nays 89, so the concurrent resolution was referred to the Committee on the Library.

2086. Bills relating to historic documents, relics, and buildings have been reported by the House branch of the Joint Committee on the Library.

The Committee on the Library reported:

In 1908,[10] a bill to aid in the care of the home of President Andrew Jackson and the collection of remaining Andrew Jackson relics.

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[1] First session Sixty-ninth Congress, Report No. 41.

[2] Report No. 1184.

[3] Report No. 1551.

[4] Report No. 1294.

[5] First session Sixtieth Congress, Report No. 1736.

[6] Second session Sixtieth Congress, Report No. 2224.

[7] Third session Sixty-second Congress, Record, p. 910.

[8] Record, p. 938.

[9] Record, p. 944.

[10] First session Sixtieth Congress, Report No. 1119.

In 1913,[1] a joint resolution authorizing the Secretary of the Old Newbury Historical Society certain old Government documents.

On April 30, 1924,[2] by direction of the Speaker,[3] by unanimous consent, the bill (H. R. 7217) for the purchase of a collection of relics of Abraham Lincoln, and the erection of a tablet to mark the spot where Lincoln died, was taken from the Committee on Public Buildings and Grounds and referred to the Committee on the Library.

In 1924,[4] a joint resolution for the restoration of the Lee Mansion in the Arlington National Cemetery.

In 1926,[5] the Committee on the Library reported a bill for the purchase of the Oldroyd collection of Lincoln relics.

2087. Bills relating to the observance of anniversaries and the commemoration of historical events have been reported by the House branch of the Joint Committee on the Library.

The Committee on the Library reported:

In 1926,[6] a joint resolution providing a commission for participation of the United States in the observance of the one-hundred-and-fiftieth anniversary of the evacuation of Boston by the British troops; a joint resolution[7] for the sixtieth anniversary of the first Memorial Day; and a Senate joint resolution[8] for the celebration of the sequincentennial of American Independence.

In 1920,[9] a joint resolution authorizing an appropriation for the participation of the United States in the observance of the three-hundredth anniversary of the landing of the Pilgrims.

In 1909,[10] a joint resolution relating to the celebration of the one-hundredth anniversary of the birth of Abraham Lincoln.

2088. The establishment of commissions dealing with subjects under the jurisdiction of the Joint Committee on the Library has been reported by the House branch of that committee.

The Committee on the Library reported:

In 1910,[11] a bill authorizing the President to appoint a commission on national historical publications.

In 1910,[12] a bill establishing a commission of fine arts.

2089. A bill relative to the marking and preservation of a battlefield was held to be within the jurisdiction of the Joint Committee on the Library rather than the Committee on Military Affairs.

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[1] Third session Sixty-second Congress, Report No. 1302.
[2] First session Sixty-eighth Congress, Record, p. 7590.
[3] Frederick H. Gillett, of Massachusetts, Speaker.
[4] First session Sixty-eighth Congress, Report No. 941.
[5] First session Sixty-ninth Congress, Report No. 789.
[6] First session Sixty-ninth Congress, Report No. 88.
[7] Report No. 1336.
[8] Report No. 720.
[9] Second session Sixty-sixth Congress, Record, p. 4843.
[10] Second session Sixtieth Congress, Report No. 1925.
[11] Second session Sixty-first Congress, Report No. 1000.
[12] Report No. 407.

On May 12, 1914,[1] on motion of Mr. Stephen M. Sparkman, of Illinois, by unanimous consent, the Committee on Military Affairs was discharged from the consideration of the bill (H. R. 5502) providing for the marking and protection of the battlefield known as Dade's Massacre in the State of Florida, and the bill was referred to the Committee on the Library.

2090. The control of the Botanic Garden is vested by law in the Joint Committee on the Library.

The Act of June 30, 1926,[2] provides:

> There shall be a superintendent and assistants in the Botanical Garden and greenhouses, who shall be under the direction of the Joint Committee on the Library.

The Committee on the Library reported, on May 12, 1926,[3] a bill to provide for enlarging and relocating the United Botanic Garden.

2091. Bills authorizing the construction and providing for the care of the Library building and the management of the Library itself have been reported by the House branch of the Joint Committee on the Library.

The Committee on the Library reported in 1910,[4] a bill providing for the reorganization of the police force of the Congressional Library.

In 1926,[5] a joint resolution relative to control of the Library of Congress trust fund; and a joint resolution authorizing the Librarian of Congress to return to a Masonic lodge a minute book in the custody of the Congressional Library.

2092. Recent history of the Joint Committee on Printing, section 42 of rule XI.

Section 43 of Rule XI provides that—

> all proposed legislation or orders touching printing shall be referred to the Joint Committee on Printing on the part of the House.

This committee consists of three Members on the part of the House.

The rules relative to the jurisdiction and membership of House branch of the Committee have remained unchanged since 1880.[6]

The law of 1852 providing for the joint committee was reenacted without amendment in the revision of 1926.[7]

2093. Bills proposing permanent law relative to the printing, binding, and distribution of public documents have been reported by the House branch ofthe Joint Committee on Printing.

The House branch of the Joint Committee on Printing reported:

In 1909, a bill[8] to codify, amend, and revise the laws relating to the public printing and binding and the distribution of public documents.

Also,[9] a joint resolution to provide for the distribution by Members of documents, reports, and publications.

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[1] Second session Sixty-third Congress, Record, p. 8480.

[2] Revised Statutes, title 40, section 216.

[3] First session Sixty-ninth Congress, Report No. 1177.

[4] Second session Sixty-first Congress, Report No. 228.

[5] First session Sixty-ninth Congress, Report No. 42.

[6] Second session Forty-sixth Congress, Record, p. 205.

[7] Revised Statutes, p. 1415, title 44, sec. 1.

[8] Second session Sixtieth Congress, Report No. 2308.

[9] Report No. 2272

2094. Illustrations of the general jurisdiction exercised by the House branch of the Joint Committee on Printing.

The House branch of the Joint Committee on Printing reported:

In 1926, bills and resolutions relative to printing of the American Creed,[1] the Constitution of the United States,[2] the Declaration of Independence,[3] the Digest and Manual of the House of Representatives,[4] hearings before various committees of the House,[5] the Last Will and testament of George Washington,[6] the proceedings of memorial services held for William Jennings Bryan,[7] proceedings on the occasion of the placing of a stone by the State of Dakota in the Washington Monument,[8] and on the unveiling of statues in Statuary Hall,[9] and elsewhere.

2095. The printing of reports by the Board of Engineers relating to rivers and harbors is a subject within the jurisdiction of the Joint Committee on Printing and not the Committee on Rivers and Harbors.

On February 5, 1908,[10] at the instance of the Speaker,[11] by unanimous consent, the Committee on Rivers and Harbors was discharged from the consideration of the concurrent resolution (H. Con. Res. 20) for printing the report of the Board of Engineers on Rivers and Harbors, on the proposed improvement of the Ohio River, and the same was referred to the Committee on Printing.

2096. The Joint Committee on Printing has exercised an infrequent jurisdiction as to the pay of employees at the Government Printing Office.

On March 12, 1926,[12] the House branch of the Joint Committee on Printing reported the bill (H. R. 5459) fixing the salary of the Public Printer and the Deputy Public Printer.

2097. Neither House may by order or simple resolution infringe upon the prerogatives vested by law in the Joint Committee on Printing.

On March 11, 1926,[13] Mr. Royal C. Johnson, of South Dakota, asked unanimous consent for a reprint of the bill (H. R. 4474) to amend the World War Veterans' Act, with the request that portions be printed in italics to indicate existing law and other portions be printed with a line drawn through indicating sections proposed to be repealed.

Mr. Otis Wingo, of Arkansas, rising to a parliamentary inquiry, said:

> If the gentleman would make a request to do something like that in the Congressional Record the Printing Office would ignore it and say it was beyond the power of Congress to do that, Congress having abdicated its power by passing a general statute saying the Joint Committee on Printing should control this, and the Joint Committee on Printing having made regulations controlling such requests the entire thing was in their hands. Now whenever the House grants unanimous consent for a change of this kind in the printing of the Record the Printing Office

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[1] First session Sixty-ninth Congress, Report No. 1375.

[2] Report No. 1225.

[3] Report No. 559.

[4] Report No. 1224.

[5] Report No. 1374.

[6] Report No. 1534.

[7] Report No. 841.

[8] Report No. 1535.

[9] First session Sixty-ninth Congress, Record, pp. 5887, 12361, 11727.

[10] First session Sixtieth Congress, Record, p. 1656.

[11] Joseph G. Cannon, of Illinois, Speaker.

[12] First session Sixty-ninth Congress, Report No. 534.

[13] First session Sixty-ninth Congress, Record, p. 5410.

ignores that, and when taken to task about it refer you to the Committee on Printing. I wanted to know if the gentleman had taken it up with the Committee on Printing.

The House has ordered certain things to be done in the Congressional Record in connection with the House proceedings, and the Public Printer has refused to do them, giving as a reason that it is contrary to the rules of the Joint Committee on Printing. If the House orders a thing done, as, for instance, the chairman of a committee gets a confidential advance print of a bill made, he can do it only by calling up the clerk of the Joint Committee on Printing.

Mr. William F. Stevenson, of South Carolina, a member of the Joint Committee on Printing, replied:

There is a law that provides that the Joint Committee on Printing shall have the right to make rules as to how things shall be printed. For instance, we made a rule that when you insert something taken out of a book or a magazine it must be printed in 6-point type. That rule is made the law. It is made by the joint committee, not by the House committee alone. It is law, and it has been so held. When the House, by unanimous consent, orders that a certain matter is to be printed in 8-point type, that is an endeavor to amend the law by mere unanimous consent on the part of the House, and inasmuch as it would take the action of both the House and the Senate to amend the law, we pay no attention to it when a Member asks to have something printed in 8-point type, which is more expensive. We shut down on it absolutely and pay no attention to unanimous-consent requests in this House, because the House by unanimous consent can not amend the law.

The House and the Senate together are the creators, and the creature having been created with certain powers, the House can not set aside those powers and interfere with them.

If it were not that way, the House could pass a law by unanimous consent of the House.

Whereupon, the Speaker [1] declined to submit the request to the House.

2098. While the Joint Committee on Printing is empowered by law to discharge certain executive duties when Congress is not in session, this committee may not be authorized to perform legislative functions prior to its election in an ensuing Congress.

On December 1, 1923,[2] Mr. Thomas L. Blanton, of Texas, rising to a point of order, submitted:

Mr. Speaker, on the 5th of December, 1923, the distinguished gentleman from Pennsylvania, Mr. Kiess, introduced the bill (H. R. 506) to authorize the Public Printer to fix rates of wages for employees of the Government Printing Office, which was referred to the Committee on Printing. On the 6th of December the gentleman from Pennsylvania attempted to report the bill from his committee to the House and place the same on the Union Calendar. I make the point of order that that act was improper; that the gentleman was not so authorized by any committee of the House, and that this bill should go back to the committee.

The Speaker said:

That question has been called to the attention of the Chair. The Chair is disposed to think that the Committee on Printing was not in existence at that time for the purpose of legislation, although the Chair would be glad to hear from the gentleman from Pennsylvania, if he desires to be heard. Evidently he is not in the Chamber, and the Chair thinks the matter would better be postponed until he is present.

Subsequently, on December 17,[3] Mr. Edgar M. Kiess, of Pennsylvania, Chairman of the Committee on Printing, inserted in the Record, by unanimous consent, the following statement:

Objection was made in the House on December 10 by the gentleman from Texas, Mr. Blanton, to the reporting of House bill 506 by the Committee on Printing. Under the leave granted to

[1] Nicholas Longworth, of Ohio, Speaker.

[2] First session Sixty-eighth Congress, Record, p. 208.

[3] Record, p. 337.

extend my remarks I wish to print the following statement giving authority upon which the committee based its action:

"As stated in the Congressional Record (vol. 64, pt. 6, p. 5532) the Speaker on March 3, 1923, appointed Mr. Kiess, Mr. Johnson of Washington, and Mr. Stevenson as members of the 'temporary' Committee on Printing, pursuant to the act approved March 3, 1917 (39 Stat. 1121), which provides for a permanent organization for the Joint Committee on Printing.

"At the same time the Speaker announced the appointment of a temporary Committee on Accounts and members of the Joint Committee on the Reorganization of the Administrative Branch of the Government and the Joint Committee on Employment of Prisoners in United States Penitentiaries as made 'pursuant to law.'

"The act of March 3, 1917, provides that the President of the Senate and the Speaker of the House shall, on the last day of Congress, appoint Members of their respective Houses who have been elected to the succeeding Congress to fill any vacancies which may then be about to occur on the Joint Committee on Printing, and that such appointees and the members of the committee who have been reelected shall continue until their successors are chosen.

"The act also provides that the joint committee shall, when Congress is not in session, exercise all the powers and duties devolving upon said committee as provided by law, the same as when Congress is in session.

"Inasmuch as all members of the Joint Committee on Printing on the part of the House in the Sixty-seventh Congress were reelected to the Sixty-eighth Congress, it was not necessary under the law for the Speaker to make appointments to the joint committee at the close of the Congress, as there were no vacancies then about to occur. However, as a matter of fact, and as the Record so indicates, the Speaker did appoint a temporary Committee on Printing, as I have already stated.

"Under the Rules of the House (sec. 720 of Rule XI) 'all proposed legislation or orders touching printing shall be referred to the Joint Committee on Printing on the part of the House.'

"Hinds' Precedents (vol. 4, sec. 4348) states that 'the Committee on Printing has exercised an infrequent jurisdiction as to the pay of employees at the Government Printing Office,' and that such bills are referred to the committee.

"Pursuant to this rule the wage bill (H. R. 506), which I introduced on December 5, was referred to the Committee on Printing on that day.

"The Committee on Printing, acting under authority of its appointment by the Speaker and in accordance with the law and rules of the House, assumed that it has the right to consider this bill, which it did, and reported it back to the House on the following day, December 6, with a written report. This report was numbered 1 by the Clerk of the House, and sent to the Government Printing Office for printing along with the bill, which was indorsed by the Clerk of the House as having on December 6 been 'Committed to the Committee of the Whole House on the state of the Union, ordered to be printed,' and assigned to the Union Calendar as No. 1. The Congressional Record of December 6, page 103, so records the reporting of the bill (H. R. 506) by the Committee on Printing under clause 2 of Rule XIII.

The committee is furthermore of the opinion that being in actual existence at the time, it had the right to report the bill in accordance with an interpretation of the rules and precedents of the House as laid down in Hinds' Precedents (vol. 4, sec. 4347, p. 846), wherein Mr. Hinds made this statement:

"'While in fact a joint committee, the House branch acts also as a *standing committee of the House,* receiving resolutions and bills which are referred to it, and reporting them by its own authority without the concurrent action of the Senate branch.'

"If it shall be held that the Joint Committee on Printing on the part of the House was not in existence or had no rights as a legislative committee on December 6, then it will be impossible for a new House to order printing done prior to the election of its regular standing committees. In this connection I invite attention to the provision carried annually in the legislative appropriation act, which is to be found in the act approved February 20, 1923 (Public, No. 431, Sixty-seventh Congress, p. 16), which reads as follows.

"'Printing and binding for Congress, chargeable to the foregoing appropriation, when recommended to be done by the Committee on Printing of either House, shall be so recom-

mended in a report containing an approximate estimate of the cost thereof, together with a statement from the Public Printer of the estimated approximate cost of work previously ordered by Congress within the fiscal year.'

"The act of March 1, 1907 (34 Stat. 1012), further provides that 'either House may order the printing of a document not already provided for by existing law, *but only when the same* shall be accompanied by an estimate from the Public Printer as to the probable cost thereof.' The same act also provides that resolutions to print extra copies of documents when presented in either House 'shall be referred immediately to the Committee on Printing.'

"It therefore follows that if the House does not have a Committee on Printing, either under the law or the rules creating the Joint Committee on Printing on the part of the House, this body can not order documents printed or extra copies provided for its own use until a Committee on Printing has been elected after the organization of each new Congress. In other words, from the beginning of the present session on December 3 until to-day this House would have been without authority to order printing done as provided by law.

"In my opinion it was to meet just such a situation as this that the act of March 3, 1917, was passed with the concurrence of this House providing for a Committee on Printing on the part of the two Houses of Congress until such time as either House of Congress until such time as either House might make a change in its membership on the committee, which, according to Hinds' Precedents possesses either joint or separate authority."

2099. Recent history of the Joint Committee on Enrolled Bills, section 43 of Rule XI.

Section 43 of Rule XI provides for the reference of—

the enrollment of engrossed bills to the Joint Committee on Enrolled Bills.

This rule was adopted in this form in 1880. No change in the jurisdiction of the committee or in the number of members constituting the committee has been made since that revision.

While the rule provides for a joint committee, in practice each branch acts separately in the comparison of bills of its own House for enrollment and merely cooperates in the interchange of bills for signature.

The House portion of the Committee consists of seven Members.

2100. The creation and history of the Joint Committee on Disposition of Executive Papers, Section 44, Rule XI.

The rule gives the Joint Committee on Disposition of Executive Papers jurisdiction over "all proposed legislation concerning the disposition of useless executive papers."

The Joint Committee on Disposition of Executive Papers, while recognized by the rules, was created by the statutes.

The statutes provide for the appointment of a Joint Committee of the two Houses to consider reports as to destruction of useless papers in the Executive Departments.

Section 44 of Rule XI provides for the reference of—

all proposed legislation concerning the disposition of useless executive papers—to the Joint Committee on Disposition of Executive Papers.

This committee consists of two Members on the part of the House.

The Joint Committee on Disposition of Executive Papers was established by statute in 1889,[1] but was not recognized by the rules until 1911,[2] when it was provided for in the revision of that year.

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[1] 25 Stat. L., p. 672; Revised Statutes, p. 36, Section 112.

[2] First session Sixty-second Congress, pp. 13, 80.

Chapter CCXXXI.[1]

GENERAL PRINCIPLES OF JURISDICTION OF COMMITTEES.

2101. It has been generally held that a committee may not report a bill whereof the subject matter has not been referred to it by the House.[2]

On January 4, 1917,[3] Mr. Robert L. Henry, of Texas, from the Committee on Rules, offered, as privileged, a resolution to discharge the Committee on Interstate and Foreign Commerce from further consideration of the joint resolution (H. J. Res. 323) to create a committee to investigate conditions relating to interstate and foreign commerce, and consider the joint resolution in the House as in Committee of the Whole.

Mr. James R. Mann, of Illinois, made the point of order that the Committee on Rules was without jurisdiction to report the resolution for the reason that it had never been referred to the committee.

The Speaker[4] sustained the point of order.

2102. A decision holding that a committee may not report a bill the subject matter of which is not within its jurisdiction, and any item failing to comply with this requirement in a bill otherwise in order is subject to a point of order when the bill comes up for consideration in Committee of the Whole.

On September 19, 1918,[5] the House was considering the revenue bill in the Committee of the Whole House on the state of the Union, when this section was reached:

That there is hereby created a legislative drafting service under the direction of two draftsmen, one of whom shall be appointed by the President of the Senate, and one by the Speaker of the House of Representatives, without reference to political affiliations and solely on the ground

[1] Supplementary to Chapter CII.

[2] The Committee on Rules is an exception to this requirement to the extent that it may report special orders without awaiting the formality of reference of the subject matter. See section 10197 of this work.

[3] Second session Sixty-fourth Congress, Record, p. 841.

[4] Champ Clark, of Missouri, Speaker.

[5] Second session Sixty-fifth Congress, Record, p. 10524.

of fitness to perform the duties of the office. Each draftsman shall receive a salary of $5,000 a year, payable monthly.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the item related to subject matter which was not within the jurisdiction of the Committee on Ways and Means reporting the bill.

The Chairman [1] sustained the point of order, saying:

This is a very important matter, and the Chair will make the following explanatory statement. Should a bill be erroneously referred, the rules provide the procedure by which that bill, as a whole, may be returned to the proper committee. If advantages is not taken in time of the rule, and the committee improperly in possession of the bill proceeds to consider it, and report the same to the House, it will then be too late to raise a point of order against the bill as a whole.

On such a case the committee entitled to jurisdiction is considered to have slept upon its rights. But when a bill is properly sent to a committee having jurisdiction over the subject matter, and it improperly includes in the bill reported to the House, matter not within its jurisdiction, then upon the consideration of the bill, the extraneous matter improperly included, can be objected to by a point of order. This is the first opportunity presented to object to the offending matter. Hence no one has slept on his rights and no one is estopped to make objection. There must be an opportunity afforded at some time to object to matter included in a bill in excess of the jurisdiction of a committee, and the first time that this opportunity is afforded, is when the bill is under consideration, and the objectionable matter is reached.

The Chair will read the following extract from the rules:

"All proposed legislation shall be referred to the committees named in the preceding rule, as follows, viz: Subjects relating—

"1. To the election of Members—to the respective Committees on Elections.

"2. To the revenue and the bonded debt of the United States—to the Committee on Ways and Means."

The latter provision fixes the jurisdiction of the Ways and Means Committee, and delimits the matter appropriate for its consideration. Suppose the Committee on Ways and Means should report a bill dealing with the bonded debt, and as one paragraph of same should include matter properly belonging to the Elections Committee, or to the Committee on Foreign Affairs, or to the Committee on Appropriations, or to any other committee, how would this illegal assumption of jurisdiction be reached, save by a point of order directed to the offending matter?

2102a. Prior to the election of committees, reference of bills is made as if committees were in existence, and when committees are elected such reference is effective without further formality.

In the absence of a committee exercising jurisdiction over the subject matter of a bill under consideration in the House, it is in order formally to move to recommit the bill with instructions to any committee in existence or to the Committee of the Whole House on the state of the Union or to a proposed select committee presumably to consist of Members serving on the committee having jurisdiction in the preceding Congress.

On June 3, 1929,[2] and before the Committee on the Census had been elected, the House took up for consideration the resolution (H. Res. 49) for the consideration of the bill (S. 312) to provide for the fifteenth and subsequent decennial censuses and to provide for the apportionment of Representatives in Congress.

During debate on the resolution, Mr. Cassius C. Dowell, of Iowa, as a parliamentary inquiry, asked how it would be possible, in the consideration of the bill to

[1] Mr. Edward W. Saunders, of Virginia, Chairman.

[2] First session Seventy-first Congress, Record, p. 2258.

invoke the motion to recommit with instruction, in the absence of any committee having jurisdiction to which it could be referred.

The Speaker [1] said:

The parliamentarian under the direction of the Speaker refers the bills to the committees that have jurisdiction of the subject matter. The bills are then delivered to the bill clerk, who numbers them and sends them to the Printing Office to be printed. The printed copies are then returned to the bill clerk to be by him delivered to the committee to which they were referred. In the present circumstance, all of the committees not being organized, the bill clerk retains the bill until the committees are organized. The practice is pursued in order to prevent confusion and as a mere method of orderly disposition of the bills introduced.

A motion to recommit with instructions to report forthwith is purely a formal motion. It does not mean that the committee is going to assemble and consider the question and formally report the bill—it is a pure formality. The Chair thinks under the present circumstances that it is in order to move to recommit the bill to any standing committee that is organized, or any select committee, or the Committee of the Whole House on the state of the Union, and there being no Census Committee in existence the Chair would hold that it is not in order to move to recommit the bill—provided such a motion is made—to the Committee on the Census, there being no such committee in existence. But it would be in order to move to recommit the bill to the former members, naming them, of the Committee on the Census, in the nature of a select committee, or to the Committee of the Whole House on the state of the Union.

Since the Committee on the Census is nonexistent, it would be in order to recommit it to a select committee composed of the Members of the present House who were members of the Committee on the Census of the last Congress.

2103. Before the appointment of the committee having jurisdiction it was held in order to offer for consideration a resolution not previously considered by such committee.

On April 12, 1909,[2] and prior to the appointment of the Committee on Appropriations, Mr. James A. Tawney, of Minnesota, offered for consideration the joint resolution (H. J. Res. 45) making appropriations for the payment of certain expenses incident to the first session of the Sixty-first Congress.

Mr. Robert B. Macon, of Arkansas, made the point of order that the resolution had not been considered by a committee of the House.

The Speaker [3] held that prior to the appointment of a committee having jurisdiction of the subject matter of the joint resolution there was no provision of the rules prohibiting its consideration, and overruled the point of order.

2104. After the appointment of committee it is not in order to offer for consideration a legislative proposition not reported by a committee.

On April 6, 1911,[4] Mr. Swagar Sherely, of Kentucky, asked unanimous consent for consideration of the joint resolution (H. J. Res. 68) to create a joint committee on revision and recodification of the laws.

Objection being made, Mr. Sherley then moved the adoption of the joint resolution.

Mr. Charles C. Carlin, of Virginia, made the point of that the motion was not in order because the joint resolution had not been referred to and reported by a committee of the House.

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] First session Sixty-first Congress, Record, p. 1341.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] First session Sixty-second Congress, Record, p. 112.

The Speaker [1] sustained the point of order.

2105. The House itself may refer a bill or resolution to any committee and jurisdiction is thereby conferred.

On February 24, 1927,[3] during a call of the Private Calendar under a special order, the joint resolution (S. J. Res. 112) for the relief of Katherine Imbrie was reached.

Mr. Eugene Black, of Texas, made a point of order that the bill which had been reported by the Committee on Foreign Affairs was properly within the jurisdiction of the Committee on Claims.

The Speaker pro tempore [3] conceded that in compliance with the rules the bill would have been referred to the Committee on Claims, but directed the Clerk to read the proceedings on the occasion of the reference of the bill. The Clerk [4] read as follows:

THE SPEAKER. On February 2 the Senate passed Senate Joint Resolution 112 for the relief of Katherine Imbrie. The chairman of the Committee on Claims advises the Chair that in view of the fact that the Committee on Foreign Affairs has had extended hearings on this matter he prefers that the joint resolution be referred to the Committee on Foreign Affairs. The chairman of the latter committee also agrees to this reference. Therefore without objection the resolution will be referred to the Committee on Foreign Affairs.

There was no objection.

The Speaker pro tempore accordingly held:

The Chair construes that as the unanimous consent which is required under section 3 of Rule XXI, and therefore overrules the point of order.

2106. The House may refer a bill to any committee and jurisdiction is thereby conferred, but such action is not irrevocable, and a motion to again change such reference is in order until the bill is reported.

The granting of indefinite leaves of absence to superannuated employees of the Post Office Department is a subject within the jurisdiction of the Committee on the Post Office and Post Roads and not the Committee on the Civil Service.

Discussion of instances in which Speakers have reserved rulings on points of order.

On May 22, 1916,[5] on motion of Mr. William E. Cox, of Indiana, by unanimous consent, the Committee on the Post Office and Post Roads was discharged from the consideration of the bills (H. R. 6915) and (H. R. 10130) relative to granting of indefinite leaves to superannuated employees in the Post Office Department, and the bills were referred to the Committee on Reform in the Civil Service.

On the following day,[6] Mr. James R. Mann, of Illinois, as a parliamentary inquiry, asked if a motion to again change the reference of these bills would be in order.

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-ninth Congress, Record, p. 4720.

[3] Carl R. Chindblom, of Illinois, Speaker pro tempore.

[4] Second session Sixty-ninth Congress, Record, p. 3311.

[5] First session Sixty-fourth Congress, Record, p. 8456.

[6] Record, p. 8516.

The Speaker [1] ruled that it would.

Subsequently, on May 26,[2] Mr. Samuel W. Beakes, of Michigan, by direction of the Committee on the Post Office and Post Roads, moved to discharge the Committee on Reform in the Civil Service from the consideration of the bills and again refer them to the Committee on the Post Office and Post Roads.

Mr. Cox raised a question of order on the ground that the matter had been adjudicated by the House.

After exhaustive debate, the Speaker overruled the point of order.

Thereupon, the question being taken, and the yeas and nays being ordered, it was decided in the affirmative, yeas 177, nays 112, and the bills were referred to the Committee on the Post Office and Post Roads.

In passing upon the point of order, the Speaker digressed:

> The Chair does not know whether the Record shows it or not, but the gentleman from Illinois, Mr. Mann, said, sotto voce—so that the Chair could hear it, at least—that the Chair had made two erroneous decisions at one time. [Laughter.] The Chair does not know whether that statement is correct or not. It may be.
>
> If the Chair thought that he was wrong the other day in saying what he did to the gentleman from Illinois, Mr. Madden, the Chair would not have a particle of hesitancy in changing his mind and in frankly saying so.
>
> Some of the Speakers, notably Speaker Carlisle, on several occasions—and they were fresher in the mind of the Chair four or five years ago than they are now—made erroneous rulings when matters sprang up suddenly, and within two or three days afterwards, or something like that, he would write out an opinion, stating that he was wrong on the day before and that he did not want the ruling on the occasion he was naming to be taken as having any force or effect. Other Speakers have done it. The present occupant of the chair has done it once or twice himself. A man who is not willing to change his mind when the argument is sufficient or on new and sufficient information is not fit to be the Speaker of the House or a Member of it. [Applause.]

2107. An instance wherein, by unanimous consent, bills relating to private claims were transferred from the Committee on Claims to the Committee on Ways and Means, thereby conferring jurisdiction.

On May 14, 1928,[3] on request of Mr. Charles L. Underhill, of Massachusetts, by unanimous consent, a number of bills pertaining to the refund of customs dutise or internal-revenue taxes were referred from the Committee on Claims to the Committee on Ways and Means.

Whereupon, on motion of Mr. Underhill, by unanimous consent, the House agreed to the following order:

> That any other private claim bills in respect of the refund of customs duties or internal-revenue taxes now pending before the Committee on Ways and Means by direct reference and all such bills which may so referred during the Seventieth Congress shall be considered as properly referred under clause 3 of Rule XXI.

In response to a parliamentary inquiry submitted by Mr. Fiorello H. LaGuardia, of New York, as to whether it was intended to make the order permanent the Speaker [4] interpreted the order as applying to the current session only.

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[1] Champ Clark, of Missouri, Speaker.

[2] Record, p. 8745.

[3] First session Seventieth Congress, Record, p. 8635.

[4] Nicholas Longworth, of Ohio, Speaker.

2108. The erroneous reference of a public bill, if uncorrected, in effect gives jurisdiction to the committee receiving it.

A committee to which is referred a bill properly within its jurisdiction does not lose such jurisdiction when a change in the rules of the House confers jurisdiction over that subject matter upon another committee.

On January 5, 1909,[1] Mr. Frank O. Lowden, of Illinois, moved 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. 21491) providing for the purchase of consular buildings abroad, which had been referred to the Committee on Foreign Affairs and reported by that committee.

Mr. Richard Bartholdt, of Missouri, submitted that the bill was within the jurisdiction of the Committee on Public Buildings and Grounds, and the Committee on Foreign Affairs was not authorized to report it.

The Speaker[2] ruled:

The Chair will call the attention of the gentleman from Missouri to clause 22, rule 11, which provides:

"To the public buildings and occupied or improved grounds of the United States, other than appropriations therefor, to the Committee on Public Buildings and Grounds."

If any morning after the reading of the Journal a motion had been made by the direction of the Committee on Public Buildings and Grounds to correct a reference under the rule, whatever the House might have done in such a case it is unnecessary to inquire. But here is a bill that seems to have been referred to the Committee on Foreign Affairs, and by that committee reported, and is now upon the Union Calendar, and being a public bill under the rule the Chair is of the opinion that when once reported from that committee it is too late to raise the question of jurisdiction. The rule is otherwise as to private bills.

2109. On May 3, 1916,[3] it being Calendar Wednesday, when the Committee on Flood Control was reached in the call of committees, Mr. Benjamin G. Humphreys, of Mississippi, called up the bill (H. R. 14777) to provide for control of floods of the Mississippi and Sacramento Rivers.

Mr. J. Hampton Moore, of Pennsylvania, made the point of order that the Committee on Flood Control has exceeded its power in reporting the bill as it was properly within the jurisdiction of the Committee on Rivers and Harbors.

The Speaker[4] said:

In the first place, the Chair will state again what he has stated frequently, that the reference of bills is the most difficult and delicate question that the Speaker has to decide. The committees frequently lap over into each other's jurisdiction. That is proposition No. 1. Bills are frequently drawn that way purposely, the Chair thinks; but that is neither here nor there.

The history of this discussion and the rights of everybody are these: This bill is a public bill. It was referred to the Committee on Flood Control. If the gentleman or any other gentleman felt aggrieved or thought his rights had been trampled on or the jurisdiction of the Committee on Rivers and Harbors was being usurped, the proper remedy was for the gentleman to come in here and ask unanimous consent that it be rereferred, or have one of the committees move it.

These gentlemen sinned away the day of grace, and the Flood Committee took charge of this bill and worked on it, and it was a matter of public notoriety that they were doing it. It was not done in a corner. They went to work and investigated the matter and made this report.

The point of order is overruled.

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[1] Second session Sixtieth Congress, Record, p. 497.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] First session Sixty-fourth Congress, Record, p. 7319.

[4] Champ Clark, of Missouri, Speaker.

2110. On December 15, 1917,[1] Mr. John E. Raker, of California, by direction of the Committee on Woman Suffrage, offered a motion to take from the Committee on the Judiciary and refer to the Committee on Woman Suffrage certain joint resolutions proposing amendments to the Constitution extending the right of suffrage to women.

Mr. Finis J. Garrett, of Tennessee, made the point of order that such a joint resolution had been reported by the Committee on the Judiciary and was now on the calendar, and it was too late to offer a motion for a change of reference.

The Speaker[2] ruled:

In the proper conduct of the business of the House some months ago the Chair referred this constitutional amendment to the Judiciary Committee, were constitutional amendments have usually gone for the last 125 years. There was no Woman Suffrage Committee at that time. Very early in September, I think it was, they passed a resolution creating the committee. As a matter of fact it was appointed in the last two or three days. When the Chair refers a bill he parts company with it, for that purpose at least. The Chair has no more right to take a bill from a committee than any other Member of the House has.

Some months ago this resolution was introduced into the House, and undoubtedly under the rules and practice it ought to have gone to the Judiciary Committee. The thing dragged along, and we had an agreement that we would not pass anything except war measures, and the Judiciary Committee, acting under that understanding, did not report the resolution. In September the Rules Committee brought in a rule to create this new Committee on Woman Suffrage, but the committee was not appointed until three or four days ago. I did not have the remotest idea whether the Judiciary Committee were going to report the resolution or not, but they did report it after this and that changed the situation entirely. This new rule here about woman suffrage—

"All proposed action touching the question of woman suffrage, to the Committee on Woman Suffrage"—

undoubtedly applied to any business coming up after that rule was adopted, and not to the business that had been started before that, even by introduction into the House. After the Speaker assigns a bill to a committee he has no more control over it. I can not take a bill away from a committee, and the rule I have just read does not act automatically and is not retroactive. It would require exactly the motion that the gentleman from California, Mr. Raker, has made here. Inasmuch as the Committee on the Judiciary reported this resolution, that ended the matter. The decisions are numerous that when a committee has done that, even if it did not have original jurisdiction—which this Judiciary Committee did have in this case—it has the right to go on with it. The decisions are too numerous even to quote that where an erroneous reference is made—and the case is stronger where a correct reference was made—and the committee reports the matter referred to it, it has jurisdiction. The Chair would be compelled under the circumstances of this case to hold that, as far as committees are concerned, this thing was concluded when the Judiciary Committee made its report, and the Chair so holds.

2111. On Wednesday, February 17, 1932,[3] when the Committee on Agriculture was reached in the call of committees under the Calendar Wednesday rule, Mr. Jones, from that committee, called up the joint resolution (H. J. Res. 292) authorizing the Secretary of Agriculture to make loans to individuals to encourage the forming of local agriculture-credit corporations, or like organizations.

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[1] Second session Sixty-fifth Congress, Record, p. 345.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Seventh-second Congress, Record, p. 4149.

The House resolved automatically into the Committee of the Whole House on the state of the Union, and the Clerk having read the joint resolution, Mr. Robert Luce, of Massachusetts, rising to a parliamentary inquiry, said:

The law creating intermediate credit banks was the result of a bill introduced by the Committee on Banking and Currency. My query is whether this matter has been properly referred to and considered by the Committee on Agriculture?

The Chairman [1] ruled:

The Committee on Agriculture having reported it out, the Chair would say that it has jurisdiction of the joint resolution.

2112. A public bill having been reported by a committee and being under consideration in Committee of the Whole, it was held that the question of jurisdiction might not then be considered.

It is for the House and not for the Speaker to decide on the legislative effect of a proposition.

The question of inconsistency of pending legislation with existing law is not passed upon by the Chair.

On February 16, 1910,[2] this being Calendar Wednesday, the Committee on Library being reached, called up the resolution (H. Res. 163) directing the Committee on the Library to employ artists for painting pictures of former Speakers of the House of Representatives, and the House automatically resolved itself into the Committee of the Whole House on the state of the Union.

Thereupon Mr. James R. Mann, of Illinois, raised the point of order that the resolution provided for the payment of money from the contingent fund and should have been referred to the Committee on Accounts.

In the course of the debate on the point of order Mr. Mann said:

I put my point of order upon the ground that under the law the expenditures out of the contingent fund of the House could only be for certain things and matters approved by the Committee on Accounts, and that that law was binding on the House and binding on the Chair in the House, and that the House can not confer jurisdiction upon another committee of the House to appropriate money out of the contingent fund of the House. Now, whether that be correct or not I do not know. The point of order does not come too late, so far as being made at all is concerned. If a point of order can be made at all, it comes as soon as it can be made. This is the first opportunity of making the point of order. The House has automatically resolved itself into the Committee of the Whole House on the state of the Union without a motion. Now, whether no point of order can be made after the resolution is reported is the question before the Chair. Whether the reference of this resolution to pay out of the contingent fund of the House, contrary to the provisions of the statutes, which say that these payments shall be made and audited by the Committee on Accounts, whether that point of order can be made after the reference of the bill is the question, although the resolution, if passed, might not be effective, it makes no difference. The question is on the reference to the committee where the rule provides that these accounts shall go through the Committee on Accounts.

The Chairman [3] ruled:

Pending consideration by the committee of House resolution 163, the gentleman from Illinois, Mr. Mann, made a point of order as to the reference of the bill, which appears on its face

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[1] Kent E. Keller, of Illinois, Chairman.

[2] Second session, Sixty-first Congress, Record, p. 1973.

[3] Mr. Charles G. Washburn, of Massachusetts, Chairman.

to be containing matter which might appropriately be referred to the Committee on the Library, and other matter which might be appropriately referred to the Committee on Accounts. It being a public resolution upon a public calendar, the Chair would rule that after the bill is reported it is too late to raise the question of jurisdiction as to reference. The gentleman raises the point that the House may not by a resolution change the effect of existing law as it appears in the statutes, but the Chair would upon that point state that this would seem to be a question for the House to determine rather than the Chair. The Chair would therefore overrule the point of order made by the gentleman from Illinois.

2113. After a public bill has been reported it is not in order to raise a question of jurisdiction.

Propositions to amend the Federal reserve act are within the jurisdiction of the Committee on Banking and Currency.

On Wednesday, February 1, 1928,[1] Mr. Louis T. McFadden, of Pennsylvania, by direction of the Committee on Banking and Currency, called up the bill (H. R. 6491) to amend the Federal reserve act.

Mr. Fiorello H. LaGuardia, of New York, made the point of order that the bill was not properly before the House in that it came within the jurisdiction of the Committee on the Judiciary and the Committee on Banking and Currency was without authority to report it or call it up.

The Speaker[2] said:

The Chair recalls when this bill was before him for reference that he examined into the matter and it was quite clear that the reference was correct, in view of the fact this is an amendment of the Federal reserve act, and under the rules the Committee on Banking and Currency has jurisdiction of questions arising under the Federal reserve act; but whether that be true or not, the point of order is evidently made too late. The precedents are uniform that after a public has been reported, it is too late to raise the point of order as to the jurisdiction of the committee.

2114. After a public bill is under consideration in the Committee of the Whole it is too late to raise a question as to the jurisdiction of the committee reporting it.

On January 21, 1920,[3] the day being Calendar Wednesday, Mr. Charles E. Fuller, of Illinois, from the Committee on Invalid Pensions, when that committee was reached, called up the bill (H.R. 11449) giving pensionable status to widows of soldiers killed in action.

After consideration had proceeded for some time, Mr. Ewin L. Davis, of Tennessee, raised a question of order against the bill on the ground that it related to wars other than the Civil War and was therefore within the jurisdiction of the Committee on Pensions and not the Committee on Invalid Pensions.

The Chairman[4] said:

This bill was introduced in the House January 5 and referred to the Committee on Invalid Pensions. The House thereby had knowledge of the contents of the bill and its reference. No objection was made to the reference and there was no attempt to have it referred to any other committee. On January 12 the bill was reported back to the House by the Committee on Invalid Pensions, referred to the Committee of the Whole House on the state of the Union, and ordered

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[1] First session, Seventieth Congress, Record, p. 2338.

[2] Nicholas Longworth of Ohio, Speaker.

[3] Second session Sixty-sixth Congress, Record, p. 1851.

[4] Mr. Louis C. Cramton, of Michigan, Chairman.

to be printed. The House again had notice that the Committee on Invalid Pensions had been considering this bill, had ordered a favorable report on it, and that the bill in its present form had been referred to the Committee of the Whole House on the state of the Union for consideration. Still no objection or point of order was raised.

To-day, the calendar being called, the gentleman from Illinois rose in place and called up the bill. It was read in its entirety in the House. The House then went into Committee of the Whole House on the state of the Union for the consideration of the bill. In other words, the House ordered the Committee of the Whole House on the state of the Union to consider this bill. It was again read in its entirety before consideration was begun in Committee of the Whole House on the state of the Union, and yet no point of order was made against the bill.

Consideration of the bill was begun, debate was had pro and con in the committee, and the bill had been read in its entirety for amendment before the gentleman from Tennessee, Mr. Davis, made his point of order.

It seems to the Chair that so far as any point of order against the bill as a whole is concerned, the point of order comes too late, because it is undoubtedly the better practice of the House that after the consideration of a bill has begun in Committee of the Whole it is too late to raise the point of order as to the manner or form in which the bill was reported to the House.

It seems to the Chair that under the decisions of the House, and the universal practice so far as the present occupant of the chair has been able to find, the point of order of the gentleman from Tennessee is not well taken. The Chair, therefore, overrules the point of order.

2115. On February 21, 1922,[1] during consideration in the Committee of the Whole House on the state of the Union of the bill (H. R. 10193) relating to several Indian reservations, Mr. William B. Bankhead, of Alabama, made the point of order that the bill related to public lands and was not within the jurisdiction of the Committee on Indian Affairs.

Mr. James R. Mann, of Illinois, said:

Mr. Chairman, may I call the attention of the gentleman from Alabama to the fact that one can not make a point of order to a legislative item in a public bill which has been referred to a committee and reported back to the House by the committee? The only way you can raise that question is by a motion in the House to refer the bill to some other committee.

The Chairman[2] ruled:

The gentleman from Illinois states correctly the rule and the uniform practice in this House, so far as the present occupant of the chair recalls, that after a bill has been considered by a committee and reported to the House and is under consideration in the Committee of the Whole House on the state of the Union, the question of jurisdiction can not be raised. The Chair, therefore, overrules the point of order.

2116. While a question as to jurisdiction of a committee over a public bill is not in order in the Committee of the Whole, the question as to the right of a committee to report a private bill may be raised at any time prior to passage.

On January 8, 1919,[3] during the consideration in the Committee of the Whole House on the state of the Union of the bill (H. R. 13274) to provide relief in the absence of formal war contracts, Mr. Edward C. Little, of Kansas, raised the question of order that the bill was not within the jurisdiction of the Committee on Military Affairs which reported it but should have been referred to the Committee on Claims.

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[1] Second session Sixty-seventh Congress, Record, p. 2865.

[2] Mr. John Q. Tilson, of Connecticut, Chairman.

[3] Third session Sixty-fifth Congress, Record, p. 1143.

The Chairman [1] held:

In the opinion of the Chair, the bill before the House is a public bill, and it is too late to raise a question of jurisdiction. The question of estoppel would apply. If the bill—a public one—had been improperly referred, any time before it was reported to the House by the committee a motion would have been in order to correct the reference. Not having been made, it is not too late to make it.

The Chair has not examined the precedents cited, but feels sure that if the gentleman will investigate it he will not find any of those bills were ordered considered under a special rule of the House providing for their consideration. The Chair believes that an investigation will show that in the cases cited the House was in the Committee of the Whole House considering the Private Calendar. That the bills were called up in regular order when reached on the calendar and the points of order then made. Under such circumstances it is undoubtedly in order to make a point of order as to jurisdiction of committee. Such a case is very different from the one at bar.

2117. Motions to change the reference of public bills are not in order on Calendar Wednesday.

On March 13, 1918,[2] it being Wednesday, immediately after the reading of the Journal, Mr. John E. Raker, of California, by direction of the Committee on Woman Suffrage, proposed to offer a motion to change the reference of a bill to that committee.

The Speaker [3] held that the motion was not in order on Calendar Wednesday and declined recognition for that purpose.

2118. On Wednesday, December 13, 1911,[4] immediately following the reading of the Journal, Mr. Joseph T. Robinson, of Arkansas, requested recognition to proposed a change in the reference of the bill (H. R. 4112), relating to allotments of certain Indian lands, from the Committee on Public Lands to the Committee on Indian Affairs.

Mr. James R. Mann, of Illinois, as a parliamentary inquiry, submitted that the day being Calendar Wednesday, no business was in order except the call of the calendar.

The Speaker [5] sustained the point of order and declined recognition, and directed the Clerk to proceed with the call of committees.

2119. Motion to change the reference of a public bill, to come within the privilege, must be offered immediately after the reading of the Journal and if the floor is yielded for other business the motion is not again privileged on that day.

On December 18, 1917,[6] immediately after the reading of the Journal, Mr. John E. Raker, of California, proposed to offer a motion to change the reference of a bill, when Mr. Claude Kitchin, of North Carolina, asked him to withhold the motion temporarily in order to permit consideration of pressing business which could quickly be disposed of.

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[1] Charles R. Crisp, of Georgia, Chairman.

[2] Second session Sixty-fifth Congress, Record, p. 3443.

[3] Champ Clark, of Missouri, Speaker.

[4] Second session Sixty-second Congress, Record, p. 308.

[5] Champ Clark, of Missouri, Speaker.

[6] Second session Sixty-fifth Congress, Record, p. 514.

Mr. Raker, as a parliamentary inquiry, asked if the temporary waiving of his right to offer the motion would preclude its consideration as a privileged matter later in the day.

The Speaker [1] held that the motion was privileged under rule immediately after the reading of the Journal and at no other time, and that yielding the floor for other business, however brief, destroyed the privilege of the motion for that day.

2120. On December 8, 1908,[2] after the consideration and disposition of several bills, Mr. Henry M. Goldfogle, of New York, proposed to offer a motion to change the reference of the bill (H. R. 22320), to fix the fees of bailiffs in the United States courts of Alabama, from the Committee on the Judiciary to the Committee of Expenditures in the Department of Justice.

The Speaker [3] said:

The Chair will call the attention of the gentleman from New York making the motion to Rule XXII, clause 3:

"And corrections in case of error of reference may be made by the House without debate, in accordance with Rule XI, on any day immediately after the reading of the Journal, by unanimous consent, or on motion of a committee claiming jurisdiction, or on the report of the committee to which the bill has been erroneously referred."

It seems to the Chair that this is not immediately after the reading of the Journal. After the reading of the Journal there was also a call of committees. The Chair is of opinion that the gentleman's motion is not in order at this time, under the rules. The Chair will call the attention of the gentleman to the rule itself. It is very explicit and plain. It is so plain that it does not need any interpretation by the Chair.

2121. Motions to change the reference of public bills are privileged only when formally authorized by the committee to which referred or the committee claiming jurisdiction.

On December 17, 1912, [4] Mr. James L. Slayden, of Texas, asked recognition to offer a motion for the correction of an erroneous reference of a concurrent resolution, when Mr. William P. Borland, of Missouri, raised the point of order that the motion had not been authorized by the committee claiming jurisdiction.

In response to an inquiry from the Speaker, Mr. Slayden replied that while the committee favored the change in reference, no formal action had been taken authorizing the motion.

The Speaker [1] said:

The present occupant of the chair ruled last summer, after a good deal of debate and after examining the authorities, that the sanction of the committee must be had.

2122. On April 29, 1910, [5] Mr. Henry M. Goldfogle, of New York, moved that the reference of the resolution (H. Res. 556) relative to fees and salaries in the Department of Justice, be changed from the Committee on the Judiciary to the Committee on Expenditures in the Department of Justice.

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixtieth Congress, Record, p. 52.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] Third session Sixty-second Congress, Record, p. 794.

[5] Second session Sixty-first Congress, Record, p. 5570.

The Speaker inquired if the Committee on Expenditures in the Department of Justice had authorized the motion.

Mr. Goldfogle said:

The committee agreed in the last session to take charge of that resolution,

but added that he had not been authorized by the committee to offer the motion.

The Speaker [1] ruled:

Then the Chair does not recognize the gentleman to make that motion, because, under the rule, he must be authorized by the action of the committee.

2123. On December 17, 1908,[2] Mr. Thetus W. Sims, of Tennessee, asked unanimous consent that the Committee on the District of Columbia be discharged from the consideration of the joint resolution (H. J. Res. 202) making an appropriation for inaugural ceremonies, and that the joint resolution be referred to the Committee on Appropriations.

Objection being made, Mr. Sims proposed to offer a motion to that effect.

The Speaker [1] inquired:

Is that made on behalf of the committee?

Mr. Sims replied in the negative. Whereupon the Speaker said:

This motion would be in order on behalf of either committee immediately after the reading of the Journal, but it is not in order unless it voices the committee action.

2124. Privileged motions to change the reference of public bills have precedence of motions to go into Committee of the Whole to consider general appropriation bills.

Motions to change the reference of public bills, when privileged under the rule, take precedence of conference reports.

Legislative propositions relating to woman suffrage in the Territories were held to come within the jurisdiction of the Committee on Woman Suffrage and not the Committee on Territories.

On March 14, 1918,[3] immediately after the reading of the Journal, Mr. John E. Raker, of California, by authorization of the Committee on Woman Suffrage, moved that the Committee on Territories be discharged from further consideration of the bill (H. R. 4665) relating to the extension of woman suffrage in the Territory of Hawaii, and that the same be referred to the Committee on Woman Suffrage.

Mr. Swagar Sherley, of Kentucky, proposed to offer, as preferential, a motion that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the legislative, executive, and judicial appropriation bill.

In debating the parliamentary question presented, Mr. Edward W. Saunders, of Virginia said:

If this situation presents a question of preferential consideration, then the preference should be given to the motion of the gentleman from California to correct an erroneous reference of a public

[1] Joseph G. Cannon, of Illinois, Speaker.

[2] Second session Sixtieth Congress, Record, p. 375.

[3] Second session Sixty-fifth Congress, Record, p. 3491.

bill. Rule XXII, subsection 3, provides specifically for this motion, and prescribes that it may be made on any day after the reading of the Journal, by unanimous consent, or on motion of committee claiming jurisdiction. the gentleman from California makes his motion on the authority of his committee claiming jurisdiction. The rule contemplates immediate action, since it excludes debate. Moreover, the motion can be made at only one moment of time, that is, the moment immediately succeeding the reading of the Journal. These circumscriptions about the motion indicate that the time given is sacred to this motion, and that a Member in a position to make the motion under the rule, and appearing at the prescribed time, should be protected in his right and have his motion submitted. There is no provision in the rules or in the precedents of which I am aware which gives a Member rising to make a motion to go into the Committee of the Whole to consider a general appropriation bill the right to displace a Member proceeding under the rule to correct an erroneous reference and have his motion submitted in preference to the prior motion intended to correct the reference complained of. The House can decline to make the correction, and then go into the Committee of the Whole if it so desires. But this is a matter in the direction of the House. The Member who has secured recognition to make the motion to correct an erroneous reference is entitled to have his motion submitted as a matter of right. He is not subject to displacement by the motion to go into Committee of the Whole.

The Speaker [1] held that the motion to change the reference of a public bill when offered by authorization of the proper committee and made immediately after the reading of the Journal took precedence of the motion to go into the Committee of the Whole to consider a general appropriation bill, and declined to recognize Mr. Sherley.

Thereupon, Mr. Thetus W. Sims, of Tennessee, proposed to call up a conference report on the bill (S. 3752), the railroad control bill.

The Speaker declined recognition for that purpose and put the question on the motion to change reference, when Mr. Joseph Walsh, of Massachusetts, moved to lay the motion on the table.

The yeas and nays being demanded and ordered, it was decided in the negative, yeas 64, nays 268, and the House declined to lay the motion on the table.

The question recurring on the motion for a change of reference, it was decided in the affirmative without division and the bill was referred to the Committee on Woman Suffrage.

2125. In order to come within the privilege of the rule, motions to change the reference of public bills must apply to a single bill and not to a class of bills.

The motion to change the reference of a public bill may not be divided and is not debatable.

A motion to change the reference of a public bill identical with one already reported is not in order.

The motion for a change of reference of a public bill is not privileged under the rule when the original reference was not erroneous.

On December 18, 1917,[2] Mr. John E. Raker, of California, offered a motion to change the reference of sundry bills relating to woman suffrage from the Committee on the Election of President, Vice President, and Representatives in Congress to

[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-fifth Congress, Record, p. 514.

the Committee on Woman Suffrage, which had been created subsequent to the date on which the bills were originally referred.

Mr. William W. Rucker, of Missouri, rising to a parliamentary inquiry, asked if the motion was debatable.

The Speaker [1] replied that the motion was not debatable.

Mr. Swagar Sherley, of Kentucky, as a point of order, submitted that the motion was not in order for the reason that a bill identical in terms with one of the bills designated in the motion had been reported by the Committee on the Judiciary and was on the calendar, and the motion was not divisible.

The Speaker held that such motions must apply to single bills and not to a class of bills, and that the motion was not divisible, and sustained the point of order.

Mr. Finis J. Garrett, of Tennessee, made the further point of order that the rule conferred a privileged status on the motion to change the reference of public bills only when the reference was erroneous and as the original reference referred to in the pending motion was made prior to the creation of the Committee on Woman Suffrage and was properly made at that time, the motion did not come within the rule.

The Speaker said:

> The Chair does sustain the point of order although it is exceedingly narrow, because the gentleman from California has his remedy. He can reintroduce these resolutions in two minutes and a half and get them referred to his committee.

2126. Motions to change the reference of public bills are not debatable.

On May 24, 1910,[2] following the reading of the Journal, Mr. Edward L. Hamilton, of Michigan, by direction of the Committee on the Territories, moved to change the reference of the bill (H. R. 26153) to amend the mining laws with reference to the Territory of Alaska, from the Committee on the Public Lands to the Committee on Territories.

Mr. Frank W. Mondell, of Wyoming, inquired if the motion was debatable.

The Speaker [3] held:

> Under the rule it is not debatable. Clause 3 of Rule XXII reads as follows:
>
> "All other bills, memorials, and resolutions may in like manner be delivered, indorsed with the names of Members introducing them, to the Speaker, to be by him referred, and the titles and references thereof and of all bills, resolutions, and documents referred under the rules shall be entered on the Journal and printed in the Record of the next day, and correction in case of error of reference may be made by the House without debate, in accordance with Rule XI, on any day immediately after the reading of the Journal by unanimous consent, or on motion of a committee claiming jurisdiction, or on the report of the committee to which the bill has been erroneously referred."
>
> Now, in the opinion of the Chair, this motion is not subject to debate. But, pending this motion, the gentleman who makes the motion asks unanimous consent that he may address the House for two minutes.

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-first Congress, Record, p. 6797.

[3] Joseph G. Cannon, of Illinois, Speaker.

2127. A motion for a change in the reference of a public bill may be amended but the amendment, like the original motion, is subject to the requirement that it be authorized by the proper committee.

Motions to change the reference of public bills are not debatable.

A committee may be discharged from the consideration of a public bill at any time before it has been reported, although the committee to which referred may have held hearings and have given the bill extended consideration.

A bill to provide housing for Government employees in the District of Columbia was held by the House to belong to the jurisdiction of the Committee on Public Buildings and Grounds and not the Committee on Labor.

On February 13, 1918,[1] Mr. Frank Clark, of Florida, under authorization from the Committee on Public Buildings and Grounds, moved that the bill (H. R. 9642) authorizing the Secretary of Labor to provide housing for war needs, be taken from the Committee on Labor to which originally referred and rereferred to the Committee on Public Buildings and Grounds.

Mr. John I. Nolan, of California, made the point of order that the motion could not be entertained for the reason that the Committee on Labor had already begun consideration and had held extensive hearings on the bill:

After debate the Speaker[2] said:

> The House, of course, is the highest parliamentary authority, higher than any Speaker or than all the Speakers, and it takes a majority of this House present to make the transfer and the House has the absolute right to refer any bill to any committee. The authorities cited convince the Speaker that the point of order ought to be overruled.

Mr. Swagar Sherley, of Kentucky, thereupon offered an amendment proposing that the bill be referred to the Committee on Appropriations.

Mr. Edward W. Saunders, of Virginia, made the point of order that an amendment to a motion for a change of reference was subject to the same requirement imposed upon the original motion in that it required the sanction of the proper committee to come within the rule, and as Mr. Sherley had not been authorized by the Committee on Appropriations to offer the amendment, it was not in order.

The speaker held that a motion to amend was in order if properly authorized, but that in the absence of express authorization from the Committee on Appropriations, Mr. Sherley could not be recognized for that purpose, and sustained the point of order.

The question on the pending motion being taken, on a division, it was decided in the affirmative, yeas 173, nays 59, and the bill was referred to the Committee on Public Buildings and Grounds.

2128. Consideration by a committee to which erroneously referred does not preclude consideration of a motion to change the reference of a bill when properly offered.

The motion to change the reference of a public bill is not debatable.

A motion to change the reference of a public bill when made immediately after the reading of the Journal is in order on Friday, as on other days.

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[1] Second session Sixty-fifth, Congress, Record, p. 2070.

[2] Champ Clark, of Missouri, Speaker.

On February 9, 1912,[1] by direction of the Committee on Labor, Mr. William B. Wilson, of Pennsylvania, moved to discharge the Committee on Interstate and Foreign Commerce from consideration of the bill (S. 252), to establish a children's bureau in the Department of Commerce and Labor, and refer the bill to the Committee on Labor.

In response to an inquiry from Mr. William C. Adamson, of Georgia, as to whether the motion was debatable, the Speaker[2] decided it was not debatable.

Whereupon Mr. Adamson raised the question of order against the motion that the bill had already been considered by the Committee on Interstate and Foreign Commerce and it was therefore too late to entertain the motion for a change of reference.

The Speaker overruled the point of order and said:

> It is within the province of the House to discharge a committee even if another committee has started to investigate the subject matter of the bill concerning which a change of reference is sought to be made.

Mr. William Richardson, of Alabama, then submitted as a point of order that this day being Friday no business was in order except that upon the Private Calendar.

The Speaker overruled the point of order and put the question, when, the yeas and nays being ordered, the yeas were 175, the nays were 113, and the motion was agreed to.

2129. A bill for the payment or adjudication of any private claim against the Government must be referred to one of these committees: Invalid Pensions, Pensions, Claims, War Claims, Public Lands, Accounts.

History of section 3 of Rule XXI.

Section 3 of Rule XXI provides:

> No bill for the payment or adjudication of any private claim against the Government shall be referred, except by unanimous consent, to any other than the following-named committees, viz: To the Committee on Invalid Pensions, to the Committee on Pensions, to the Committee on Claims, to the Committee on War Claims, to the Committee on the Public Lands, and to the Committee on Accounts.

This rule has been amended but once since its original adoption in 1885.[3] In the revision of 1911[4] the Committee on Public Lands was substituted for the Committee on Private Land Claims in the list of committees to which private claims might be referred, in order to conform to a similar change in the rule outlining the jurisdiction of the committees.

The committees enumerated in the rule may report appropriations within the limits of their jurisdiction.[5]

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[1] Second session Sixty-second Congress, Record, p. 1872.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Forty-ninth Congress, Record, p. 170.

[4] First session Sixty-second Congress, Record, pp. 16, 80.

[5] First session Sixty-seventh Congress, Record, p. 3050.

2130. Although proposing a direct appropriation, a bill for the adjudication of any private claim against the Government must be referred to the Committee on Claims.

On Friday, April 4, 1930,[1] the House was considering bills on the Private Calendar, when the title of the bill (H. R. 9092) for the relief of the estate of William Bardel was read.

Under reservation of the right to object to the consideration of the bill, Mr. Ross A. Collins, of Mississippi, submitted that the bill had been improperly referred to the Committee on Claims and should have been referred to the Committee on Foreign Affairs, which held hearings[2] on claims of a similar nature arising out of damage to the consulate at Epernay, France, in 1915, due to invasions by hostile armies.

The Speaker[3] dissented and said:

The Chair is inclined to think the bill is properly referred, for the reason that this bill not only authorizes a payment, but contains a direction to pay out of any money in the Treasury not otherwise appropriated. It is a straight appropriation of money, which the Committee on Foreign Affairs has no authority to make.

An actual appropriation must go to the Committee on Claims. It can not go to a legislative committee. The rule—clause 3, Rule XXI—is as follows:

"No bill for the payment or adjudication of any private claim against the Government shall be referred, except by unanimous consent, to any other than the following committees, viz: To the Committee on Invalid Pensions, to the Committee on Pensions, to the Committee on Claims, to the Committee on War Claims, to the Committee on the Public Lands, and to the Committee on Accounts."

This bill provides for a direct payment of the Treasury, over which the Committee on Foreign Affairs has no jurisdiction.

2131. When the House itself refers a private House bill to a committee the point of order as to jurisdiction does not avail.

On February 24, 1927,[4] while the House, proceeding under a special order, was considering bills on the Private Calendar, the bill (H. R. 15855) for the relief of Clifford J. Sanghove, was taken up.

Mr. Eugene Black, of Texas, made the point of order that the bill had been improperly referred and that the Committee on Naval Affairs was without jurisdiction to report it.

The Speaker pro tempore[5] said:

The Chair will state that the Manual contains this language:

"In cases wherein the House itself refers a private bill, a point of order may not be raised as to jurisdiction."

The Chair therefore overrules the point of order as to jurisdiction.

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[1] Second session Seventy-first Congress, Record, p. 6545.

[2] House Report No. 665.

[3] Nicholas Longworth, of Ohio, Speaker.

[4] Second session Sixty-ninth Congress, Record, p. 4719.

[5] Carl R. Chindblom, of Illinois, Speaker pro tempore.

2132. The erroneous reference of a private bill to a committee not entitled to jurisdiction does not confer it, and a point of order is good when the bill comes up for consideration either in the House or in the Committee of the Whole.

On Friday, January 25, 1929,[1] during the consideration of business on the Private Calendar, the Clerk read the title of the bill (H. R. 15279) for the relief of the family of Wang Erh-Ko.

Mr. Grant M. Hudson, of Michigan, under reservation of the right to object to the consideration of the bill, said:

Mr. Speaker, I reserve the right to object—and I do not intend to do so—to call attention to a matter of procedure of the House. This bill was referred to the Committee on Naval Affairs when it should have been referred to the Committee on Claims.

Following the passage of the bill, the Speaker[2] announced:

The Chair desires to refer to the suggestion made by the gentleman from Michigan a short time ago in regard to the bill H. R. 15279. The Chair thinks the gentleman was entirely correct.

Clause 3 of Rule XXI of the House provides that—

"no bill for the payment or adjudication of any private claim against the Government shall be referred, except by unanimous consent, to any other than the following committees, viz: To the Committee on Invalid Pensions, to the Committee on Pensions, to the Committee on Claims, to the Committee on War Claims, to the Committee on the Public Lands, and to the Committee on Accounts."

This is evidently a private claim, and should have gone to some committee other than the Committee on Naval Affairs.

The Chair will remind the House that the Chair has no control over the reference of private bills by members.

Under clause 1 of Rule XXII, Members have the sole right of reference of private bills. This right, however, is dependent upon the rules, so that if a committee reports a private bill over which it has no jurisdiction it is subject to the point of order as provided in clause 2 of Rule XXII.

As to private bills the rule is this, quoting from page 375 of the manual in connection with clause 2 of Rule XXII:

"Errors in reference of petitions, memorials, or private bills are corrected at the Clerk's table, without action by the House, at the suggestion of the committee holding possession. But in cases where the House itself refers a private House or Senate bill a point of order may not be raised as to jurisdiction."

The rule provides that—

"An erroneous reference of a petition or private bill under this clause shall not confer jurisdiction upon the committee to consider or report the same."

Section 4382 of Hinds' Precedents, volume 4, reads as follows:

"The erroneous reference of a private bill to a committee not entitled to jurisdiction does not confer it, and a point of order is good when the bill comes up for consideration either in the House or in the Committee of the Whole.

So that is the rule in the case of private bills. The Chair thinks that the gentleman from Michigan is correct.

Mr. Hudson inquired if it would yet be in order to raise a question of order against the bill.

The speaker replied:

No; it would not. The bill has been passed.

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[1] Second session Seventieth Congress, Record, p. 2246.

[2] Nicholas Longworth, of Ohio, Speaker.

Chapter CCXXXII.[1]

JURISDICTION OF COMMITTEES TO REPORT APPROPRIATIONS.

2133. A rule forbids the carrying of appropriations in bills or joint resolutions reported by committees without jurisdiction to report appropriations.

A rule forbids the offering of amendments proposing appropriations during the consideration of bills or joint resolutions reported by a committee not having jurisdiction to report appropriations.

Questions of order against items proposing appropriations in bills or joint resolutions reported by committees not having jurisdiction to report appropriations, or in amendments to such bills, may be raised at any time.

Section 4 of Rule XXI forbids consideration of proposed appropriations in bills reported by nonappropriating committees and amendments thereto, as follows:

> 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.

This rule was adopted June 1, 1920,[2] to take effect July 1 of that year. It was proposed as part of a resolution concentrating appropriating jurisdiction in one committee, and in collaboration with the bill passed May 29, 1920,[3] and eventually enacted in 1921,[4] providing for a budget system. The section places upon the

[1] This chapter has no analogy with any previous chapter.

[2] Second session Sixty-sixth Congress, Record, p. 8121.

[3] Second session Sixty-sixth Congress, Record, p. 7956.

[4] First session Sixty-seventh Congress, Record, p. 1859.

consideration of legislative bills inhibitions converse to those provided for appropriation bills in section 2 of Rule XXI.

On December 15, 1920,[1] in discussing the purpose for which this section was adopted, Mr. James R. Mann, of Illinois, said:

> The language was put in because of the practice in another body. In this House it has been the rule that the point of order must be made before the debate begins, but in the Senate they can discuss an item for a week and at the end of that time make a point of order, insist upon it, and if the point of order is sustained it goes not. There they can raise the point of order at any time. It was intended by this rule to permit the same thing to be done in the House.

The efficacy of the rule is indicated by its readoption in each succeeding Congress in the form in which originally proposed.

2134. Private bills and joint resolutions, and amendments thereto, carrying appropriations within the limits of the jurisdiction of the Committees on Invalid Pensions, Pensions, Claims, War Claims, Public Lands and Accounts, do not fall within the rule forbidding consideration of items proposing appropriations in connection with bills reported by non-appropriating committees.

On February 25, 1921,[2] Mr. Clifford Ireland, of Illinois, called up as privileged, for the Committee on Accounts, the resolution (H. Res. 389) providing for an appropriation from the contingent fund of the House.

Mr. Thomas L. Blanton, of Texas, made the point of order that under the section of rule XXI prohibiting the reporting of bills carrying appropriations by a committee without jurisdiction to report appropriations, the Committee on Accounts was not authorized to report the pending resolution.

The Speaker[3] overruled the point of order.

2135. On June 24, 1921,[4] during the consideration of business on the Private Calendar in the Committee of the Whole House, the bill (H. R. 4620), reported by the Committee on Claims, and providing for the payment of a private claim against the Government, was reached.

Mr. Thomas L. Blanton, of Texas, made the point of order that the bill had been reported in violation of the rule prohibiting the reporting by nonappropriating committees of bills carrying appropriations, and therefore was not properly on the calendar.

The Chairman[5] held:

> Clause 4 of Rule XXI says—
>
> "No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations."
>
> The Committee on Accounts has jurisdiction to report appropriations; also the Committee on Claims. Therefore the Chair thinks that the Committee on Claims retains its jurisdiction over private claims against the Government, and that this bill is properly within the jurisdiction of that committee, and overrules the point of order.

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[1] Second session Sixty-sixth Congress, Record, p. 392.

[2] Third session Sixty-sixth Congress, Record, p. 3892.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] First session Sixty-seventh Congress, Record, p. 3050.

[5] Philip P. Campbell, of Kansas, Chairman.

2136. The rule forbidding consideration of items carrying appropriations in connection with bills reported by nonappropriating committees applies to Senate bills as to House bills.

The fact that a proposed amendment is inconsistent with a proposition already voted upon was held not to warrant its being ruled out by the Speaker.

On August 3, 1921,[1] the bill (S. 674) providing for the distribution of captured war devices and trophies, was under consideration in the Committee of the Whole House on the state of the Union, when the following committee amendment was read:

That to carry out the provisions of this act there is hereby appropriated, out of any money in the United States Treasury not otherwise appropriated, the sum of $400,000, or so much thereof as may be necessary, to be administered by the Secretary of the Treasury.

Mr. Finis J. Garrett, of Tennessee, made a point of order against the amendment on the ground that the Committee on Military Affairs reporting the bill was without jurisdiction to report appropriations.

Mr. Julius Kahn, of California, argued that as the bill was a Senate bill, the rule, prohibiting the consideration of items carrying appropriations in connection with bills reported by committees not having jurisdiction to report appropriations, did not apply.

The Chairman[2] ruled:

The gentleman from Tennessee, Mr. Garrett, makes the point of order against the language in section 7 of the bill, which is as follows:

"That to carry out the provisions of this act there is hereby appropriated, out of any money in the United States Treasury not otherwise appropriated, the sum of $400,000, or so much thereof as may be necessary, to be administered by the Secretary of the Treasury."

Clause 4 of Rule XXI reads as follows, as has already been pointed out by the gentleman from Tennessee:

"No bill or joint resolution 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."

This language is clearly an appropriation. Under the new rule the Committee on Military Affairs has no appropriating power, and the language to which the point of order is made is clearly a violation of Rule XXI. The point of order is therefore sustained.

Thereupon Mr. Kahn offered this amendment:

That to carry out the provisions of this act there is hereby authorized to be appropriated, out of any money in the United States Treasury not otherwise appropriated, the sum of $400,000, or so much thereof as may be necessary.

Mr. Garrett interposed the point of order that the committee had previously rejected a similar amendment providing that the expenses should be borne by the community, without cost to the Government, and the proposition having once been passed upon by the committee and having been adjudicated, it was not in order to submit an inconsistent amendment.

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[1] First session Sixty-seventh Congress, Record, p. 4620.

[2] Joseph Walsh, of Massachusetts, Chairman.

The Chairman said.

Jefferson's Manual contains the following paragraph:

"SEC. 459. If an amendment be proposed inconsistent with one already agreed to, it is fit ground for its rejection by the House, but not within the competence of the Speaker to suppress it as if it were against order. For were he permitted to draw questions of consistence within the vortex of order, he might usurp a negative on important modifications, and suppress, instead of observe, the legislative will."

The Chair thinks in accordance with the precedent there laid down and the principle established it is not within the jurisdiction of the Chair to declare this amendment subject to a point of order upon the ground that it is inconsistent with the previous action of the committee, and therefore the Chair overrules the point of order.

2137. A point of order against an appropriation in a bill reported by a committee without jurisdiction to report appropriations lies against a Senate bill as against a House bill and may be raised at any time.

On February 7, 1927,[1] during consideration of business on the Consent Calendar, the bill (H. R. 14833) for the widening of Nicholas Avenue was reached.

On motion of Mr. Louis C. Cramton, of Michigan, by unanimous consent, it was agreed to consider in lieu of the House bill the bill (S. 4727), of similar tenor containing this provision:

That the appropriation contained in the District of Columbia appropriation act for the fiscal year ending June 30, 1927 (Public No. 205, 69th Cong.), for the opening, extension or widening of streets, avenues, roads, or highways in accordance with the plan of the permanent system of highways in that portion of the District of Columbia outside of the cities of Washington and Georgetown, is hereby made available to pay the awards and expenses under the act and the amounts assessed as benefits, when collected, shall be covered into the Treasury to the credit of the District of Columbia.

After debate and while an amendment was pending, Mr. Cramton made the point of order that this section provided for an appropriation in a bill not reported by a committee authorized to report appropriations.

Mr. Thomas L. Blanton, of Texas, submitted that the point of order came too later after the bill was under consideration and after Mr. Cramton had himself moved to substitute the Senate bill.

The Speaker pro tempore [2] said:

The Chair would rule that the point of order never comes too late. It is in order at any time under the rules. The gentleman from Michigan now makes it. His point of order is good against the offending language. The Chair sustains the point of order.

2138. While in order "at any time," it has been held that a point of order under section 4 of Rule XXI should be raised at a time consistent with the orderly consideration of the bill to which applied.

On January 24, 1923,[3] while the bill (H. R. 13773) regulating radio communication, was under consideration in the Committee of the Whole House on the state of the Union, Mr. Thomas L. Blanton, of Texas, made a point of order against a paragraph which had not yet been reached in the reading of the bill.

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[1] Second session Sixty-ninth Congress, Record, p. 3192.

[2] John Q. Tilson, of Connecticut, Speaker pro tempore.

[3] Fourth session Sixty-seventh Congress, Record, p. 2354.

The Chairman [1] entertained the point of order, but on January 31, when the House again resolved itself into Committee of the House on the state of the Union for consideration of the bill, said:

When the committee rose on Wednesday last the gentleman from Texas, Mr. Jones, was asked recognition to offer an amendment. Before the Chair recognizes the gentleman, with his indulgence, the Chair wishes to correct a ruling which he made offhand in respect to the timeliness of points of order to provisions of bills carrying appropriations.

The Chair ruled just before the committee rose that under the language of clause 4 of Rule XXI the point of order could be made at any time. On subsequent consideration, the Chair wishes to change that ruling. All rules are for the purpose of orderly procedure. If a Member of the House should be granted the privilege at any time to rise to a point of order on a provision of a bill with more than one section before it is read, it would cause considerable disarrangement in the orderly consideration of bills. No rights are lost by a Member being denied the privilege to raise that point of order until the paragraph to which he wishes to make the point of order is read.

An illustration of the rather loose procedure attendant upon the strict interpretation of this rule, that it may be raised at any time, was shown in the consideration of this bill on Wednesday last. The Chair, on the spur of the moment, gave a literal construction to the rule, which says that it may be raised at any time. At the request of the Chair it was temporarily withdrawn so as to give opportunity to the Chair to consider the parliamentary question, only to have it presented again, rather abruptly, a few minutes later.

The present occupant of the Chair will hold that the phrase "may be raised at any time" means that no Member loses his rights by withholding the making of the point of order when the House resolves itself into the Committee of the Whole House to consider the bill, or even when introduced. It is placed there so as to protect the Member, in order that he may raise it at the proper time, and the Chair will hold that when the committee is considering a bill by paragraphs or sections, and the bill contains a paragraph which some Member claims is violative of clause 4 of Rule XXI, to which the Chair refers, it will not be in order to raise that point of order until the section is read.

The point of order to any paragraph or section of a bill because it contains an appropriation which the committee has no authority to report does not vitiate the entire bill. It merely destroys that part of the bill, so far as the appropriating feature is concerned. Mr. Speaker Gillett, in a ruling made at the instance of our later parliamentary leader, Mr. James R. Mann, who raised the question so as to have a ruling, decided as to the opportuneness of pressing a point of order that it was akin to points of order raised on appropriation bills, that the appropriating committee has no authority to carry legislation on an appropriation bill, and that in the consideration of appropriation bills a Member is not privileged to rise to make a point of order at any time to some subsequent provision merely because the bill carries a paragraph embodying legislation which violates the rule. The Chair follows the logic of that ruling and of the practice of the House in connection with points of order on appropriation bills which carry legislation, and so far as the present occupant of the chair is concerned he wishes to modify the ruling he made last week when this bill was under consideration, that the point of order could be raised at any time at the pleasure of the Member who wishes to raise it. Such a practice would cause confusion in the orderly procedure of the House and of the committee.

2139. On April 15, 1924,[2] the House resolved itself into the Committee of the Whole House on the state of the Union to consider the joint resolution (S.J. Res. 52) for the relief of the drought-stricken farm areas of New Mexico, reported by the Committee on Agriculture.

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[1] Mr. William H. Stafford, of Wisconsin, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 6391.

During general debate and before the reading of the bill had begun, Mr. John Philip Hill, of Maryland, proposed to raise a question of order against the section of the bill reading as follows:

That for the purposes of this act there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $1,000,000, to be immediately available.

Mr. Louis C. Cramton, of Michigan, said:

Mr. Speaker, while the rule does say it may be raised at any time, the decision in the Sixty-seventh Congress held that, being a Senate bill, it would be necessary to make the point of order effective by an amendment. The orderly way would seem to be that when the section is read, if it is subject to a point of order, the point of order could be made. The rule says it can be made at any time, thus guaranteeing that the gentleman will not lose his rights. The point then being made, if sustained, that part of the bill to which the point of order is made would be stricken out, thereby acting as an amendment, as the Speaker ruled in the Sixty-seventh Congress; but the point being made now before there is general debate, before the resolution is read under the five-minute rule, the effect of it is only to hold that the resolution is not in order.

I do not know how you can send a message to the Senate declaring that Senate resolution is not in order. If the point of order is raised as to a particular provision of a bill, and that point or order is sustained, then that part of the bill is stricken out, that action of the Chair acting as an amendment to the bill, and it would go to the Senate as an amendment to the bill. I suggest that the proper course is to wait until a section is read to which the gentleman wishes to make the point of order.

The Chairman [1] sustained Mr. Cramton's contention and overruled the point of order.

2140. A point of order under section 4 of Rule XXI applies to the appropriation against which directed and not to the bill or section carrying it.

On January 7, 1921,[2] Mr. James R. Mann, of Illinois, rising to a point of order, said:

Mr. Speaker, I make a point of order that the bill H. R. 15163, on the Union Calendar No. 373, reported from the Committee on Indian Affairs December 17, 1920, is erroneously on the calendar. The committee had not authority to report the bill. I make the point of order for the purpose of having a decision of the Speaker construing the new rule in reference to reporting a bill which carries appropriations. The rule provides, section 4, Rule XXI:

"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 such jurisdiction. A question of order on an appropriation on any such bill, joint resolution, or amendment thereto may be raised at any time."

The first part of that rule apparently prohibits a committee from reporting a bill which carries an appropriation. The latter part of the rule would seem to indicate that though a bill had been reported a question of order on the reporting of an appropriation might be raised as to the part of the bill providing for the appropriation. The bill on the calendar is a bill which as introduced appropriated $100,000. The Committee on Indian Affairs, observing the spirit of the new rule, reported the bill with an amendment striking out that appropriation and inserting an authorization. Of course, that evidences the spirit of the committee. It does not effect, however, the question as to whether they had the right to report a bill, because the bill does carry an appropriation. The amendment proposed by the committee does not change the status of

[1] Mr. Cassius C. Dowell, of Iowa, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 1110.

the bill as reported to the House, because the amendment might or might not be agreed to by the House. I call this to the attention of the Speaker. I do not know what his view may be upon the question. I only raise it for the purpose of having a construction, after some consideration by the Speaker, so that the Speaker shall decide it and not have it left to conflicting decisions of chairmen in the House. My own view is that the point of order is not good.

It would be still in order, if the bill is reported and properly on the calendar, under the rule to make a point of order against the appropriation and strike it out on the point of order, but if the committee can not report a bill, the result would be that all Senate bills which carried incidentally appropriations and were legislative in character would have to be referred to the Committee on Appropriations, which has no legislative jurisdiction.

The Speaker [1] ruled:

The Chair has given a good deal of thought to this question ever since the rule was adopted, because clearly there are two different interpretations which could be given to the language of the rule. The Chair has tried to come to a conclusion by determining which interpretation would better facilitate the business of the House and would be more in accord with the purposes which the Chair thinks were intended by the rule. At first blush, the reading of the rule would make the point of order applicable. It says:

"No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction."

The committee in this case, as the gentleman suggested, acted in accord with the spirit of the rule by offering an amendment striking out the appropriation. And if the committee could change the bill and report the bill without the appropriation that would strictly comply with the rule, but a committee only has jurisdiction to report the bill as it originally was, with an amendment. So the bill remains with the appropriation in, despite the suggestion of the committee to amend by striking it out. A point of order is not prevented by the amendment which the committee has adopted. So this offers the plain case of whether a point of order lies against a bill carrying an appropriation and reported by a committee which has no appropriating jurisdiction. That clearly does violate the language of the first line of the rule. At the same time there is clause 2 of Rule XXI, which has long been interpreted in the House and which provides 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"—

And so forth. That is a rule of long standing, and is the direct converse of this. That forbids the Committee on Appropriations to report legislation, and this forbids a legislative committee to report appropriations.

That has been construed to mean that the point of order should be made not against the bill itself but against the item in the bill; and in the last clause of the new rule it is provided that a question of order on an appropriation in any such bill may be raised at any time, which seems to indicate that the intention was that the point of order should be raised against the appropriation.

This is in accord with the long practice of the House on appropriation bills, and so it seems to the Chair that the purpose of the rule—to prevent legislative committees from reporting appropriations—will be effected by ruling that the point of order lies against the item of appropriation and not against the reporting of the bill. If the committee had reported an amendment striking out the appropriation and that amendment should be defeated, the point of order could still be made against the appropriation, so that the appropriation would go right out.

It seems to the Chair that in that way the purpose which was intended—to prevent appropriations in legislative bills—would be entirely secured, and in that way we should also be operating along the lines we have been accustomed.

The Chair recognizes that either interpretation could be made. But for the sake of establishing a course of action the Chair will overrule the point of order hold that the point of order must be made to the appropriation itself.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

2141. On December 8, 1924,[1] a day devoted to business reported by the Committee on the District of Columbia, Mr. Frederick N. Zihlman, of Maryland, from that committee, called up the bill (H.R. 5327) for the payment to retired members of the police and fire departments of the District of Columbia of the balance of retirement pay past due them.

Mr. Thomas L. Blanton, of Texas, made the point of order that while the Committee on the District of Columbia was not authorized to report appropriations the bill provided an appropriation of $68,000.

The Speaker[2] sustained the point of order, and when Mr. Zihlman proposed to offer an amendment substituting for the language making the appropriation an authorization for the appropriation, the Speaker said:

That does not make the bill in order.

Subsequently, on January 19, 1925,[3] immediately prior to adjournment, the Speaker said:

The Chair would like to make a statement. The Chair is informed that while absent to-day, a decision made by the Chair was cited from the Record of December 8 to the effect that a bill reported, which has an appropriation in it when the committee reporting it is not authorized to appropriate, is not in order.

The Chair thinks it is a fair inference from what the Chair said at that time that it could be cited to that effect, and the Chair wishes to state that that was obviously a careless statement on the part of the Chair. It contradicted what the Chair had previously ruled and the Chair does not wish it to be held as a precedent.

2142. Under the rule forbidding consideration of appropriations in connection with bills reported by nonappropriating committees, a point of order should be directed to the item of appropriation in the bill and not to the act of reporting the bill.

The effect of an amendment upon a bill is a question for the House and is not passed upon by the Speaker.

On February 14, 1923,[4] when the Committee on Agriculture was reached in the Calendar Wednesday call of committees, Mr. Gilbert N. Haugen, of Iowa, from that committee called up the joint resolution (S.J. Res. 265) to stimulate crop production.

The Clerk having reported the title of the joint resolution, Mr. Walter H. Newton, of Minnesota, said:

Mr. Speaker, I make the point of order against the joint resolution and against the whole of it. It carries with it not an authorization for an appropriation, but it carries with it an appropriation of $10,000,000. The particular phrase will be found in lines 9 and 10, on page 1, and under the rules of the House no such appropriation can be carried except after it has been considered and reported out by the Committee on Appropriations.

In reply, Mr. Everett Sanders, of Indiana, argued:

The Chair will recall that the first ruling made by the Speaker on this question was made by the present Speaker, on a point of order raised by the gentleman from Illinois, Mr. Mann, in

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[1] Second session Sixty-eighth Congress, Record, p. 293.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Record, p. 2116; Journal, p. 407.

[4] Fourth session Sixty-seventh Congress, Record, p. 3664.

which he directed the point of order to the entire bill, not quite in this manner, but he objected to its being on the calendar. He stated that he made the point of order in order that it might be ruled upon by the Speaker rather than a chairman, and he stated that he thought it ought to be overruled; that the rule was ambiguous in that the first part of the rule says:

"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."

Indicating that the bill should not be reported by the committee if it had an appropriation and by reporting the bill was subject to the point of order. However, the Chair held that reading the first part of the sentence of the rule with the second sentence of the rule the appropriation was subject to the point of order. The second part of the rule says:

"A question of order on an appropriation in any such bill, joint resolution, or amendment thereto, may be raised at any time."

Now note the language of the rule, Mr. Speaker:

"A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time."

Indicating that the question of order is directed to the appropriation. I have noticed this joint resolution, and wondered what would happen if the point of order was raised against the one paragraph, and I have concluded that if the point of order is sustained and the appropriation goes out, that the committee then has authority to go ahead and deal with the bill—making an amendment, for instance, for an authorization.

Now let me emphasize the necessity of that construction. Here we have a Senate bill. We did not draft it, our committee did not control it; it comes over here containing a great deal of legislative matter and also contains an appropriation. It goes to the committee having legislative jurisdiction. That committee has jurisdiction of a considerable part of that bill. If there had been an authorization, it would have had all the jurisdiction. If this point of order is sustained the House can not act upon the measure at all, because we can not report it with an amendment because a bill reported with an amendment, under the first ruling of the Chair, is just as much subject to the point of order as the bill reported without any amendment.

The Speaker [1] overruled the point of order and said:

The last sentence in clause 5 of Rule XXI says:

"A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time."

When this matter first came up the chair in his ruling discussed the matter quite thoroughly and he sees no reason to change the view that he then stated, which was that there was some contradiction in the rule itself, yet the past phrase just quoted seemed then to the Chair and seems now to the Chair to be the controlling one, and that the point of order should be made on the appropriation itself. It seems to the Chair that the results of that ruling are really best for the control of the House over its business. The point made by the gentleman from Ohio, that if you take out the appropriation and it leaves nothing of any account, in that case the whole bill falls, is an argument which has weight in its practical effect, but, after all, that is a matter for the House to decide. If there is nothing left of any practical effect, the House would not care to act upon it. The Chair adheres to his original ruling, that the point of order must be made against the appropriation itself.

The Chair does not think that it is for the Chair to decide in an individual case whether striking out the appropriation makes the bill useless; that is for the House and not for the Chair to determine. The Chair overrules the point of order against the bill as a whole.

Whereupon, Mr. Newton make a point of order against the item of appropriation.

The Speaker sustained the point of order.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

2143. The point of order that a bill reported by a nonappropriating committee contains an appropriation is properly directed to the item of appropriation and not to the act of reporting the bill.

If the point of order is directed to the item of appropriation that item only is eliminated, but if made against the paragraph or section containing the item the entire paragraph or section goes out.

On May 22, 1926,[1] the House was in the Committee of the Whole House on the state of the Union for the consideration of the river and harbor bill, when Mr. Carl E. Mapes, of Michigan, called attention to this section of the bill:

"SEC. 6. The Secretary of War is hereby authorized and directed to cause preliminary examinations and surveys to be made at the following-named localities, and a sufficient sum to pay the cost thereof may be allotted from appropriations heretofore made, or to be hereafter made, for examinations, surveys, and contingencies for rivers and harbors.

Also to this item:

"and the Secretary of War is hereby authorized to expend for this purpose, from appropriations heretofore or to be hereafter made for examinations, surveys, and contingencies, an amount not to exceed $100,000."

Mr. Mapes made the point of order that these items were tantamount to appropriations and were not in order in a legislative bill.

The Speaker[2] ruled:

The Chair has before him the decision on the question raised by Mr. Mann, of Illinois, the precise question that we have here. It was raised for the purpose of obtaining a decision of the Chair. In fact, Mr. Mann said:

"I only raise it for the purpose of having a construction, after some consideration by the Speaker, so that the Speaker shall decide it and no have it left to conflicting decisions by chairmen of the House. My own view is that the point of order is not good."

The question arises as to the construction of paragraph 4 of Rule XXI, together with the construction of paragraph 2 of Rule XXI. The gentleman from Michigan, Mr. Mapes, makes the point of order that in the first sentence of paragraph 4 this language is found:

"No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations."

Apparently if that sentence were considered by itself and not in connection with the rest of that rule, or with paragraph 2 of Rule XXI, the point of order made by gentleman from Michigan would undoubtedly lie. But construing the two together, as Mr. Speaker Gillett did in that decision, the Chair thinks that a sensible view to take of the proposition is that the point of order should be directed not against the right or jurisdiction of the committee to make the report, but against specific provision to which the objection will lie.

In the opinion of the Chair section 6 of this bill does, at least indirectly, provide an appropriation. The Chair thinks that the point of order made by the gentleman from Michigan, even if made in the House—although such a point is usually made in the committee—will lie against section 6, or at least that portion of it to which the gentleman from Michigan referred.

However, the Chair thinks that the point of order would lie against the following language of section 6:

"And a sufficient sum to pay the cost thereof may be allotted from appropriations heretofore made or hereafter made for examinations, surveys, or other contingencies of rivers and harbors."

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[1] First session Sixty-ninth Congress, Record, p. 9876.

[2] Nicholas Longworth, of Ohio, Speaker.

That is on line 15. The Chair does not think that the point of order can be directed against the entire bill, and the Chair therefore overrules the point of order of the gentleman from Michigan in so far as it refers to the right of the Committee on Rivers and Harbors to make this report.

Whereupon Mr. Mapes further submitted that these items being subject to a point of order the entire paragraph in which they appeared was subject to the point of order.

The Speaker ruled:

The Chair asked the specific question of the gentleman from Michigan as to whether or not he made his point of order against that language, which the gentleman from New York concedes to be an appropriation or against the paragraph. The gentleman from Michigan says that he makes the point of order against the paragraph. The rule on that seems to be clear:

"And if a portion of a proposed amendment be out of order, it is sufficient for the rejection of the whole amendment; and where a point is made against the whole of a paragraph the whole must go out, but it is otherwise when the point is made only against a portion." [1]

The gentleman from Michigan has made his point of order against the whole paragraph which, in the opinion of the Chair, contains an appropriation, and the Chair therefore sustains the point of order made by the gentleman from Michigan that the entire paragraph must go out.

2144. Inasmuch as the inhibition provided in section 4 of Rule XXI applies to appropriations and not to acts of reporting, motions to discharge nonappropriating committees from consideration of bills carrying appropriations are not by reason of such appropriations subject to points of order.

On May 5, 1924,[2] Mr. Alben W. Barkley, of Kentucky, proceeding under section 4 of Rule XXVII, moved to instruct the Committee on Interstate and Foreign Commerce to report the bill (H. R. 7358) to provide for arbitration of disputes between carriers and their employees.

Mr. Everett Sanders, of Indiana, called attention to the fact that the bill carried a direct appropriation and made the point of order that under section 4 of Rule XXI the bill was not properly before the Committee on Interstate and Foreign Commerce and could not be reported by that committee.

The Speaker [3] decided and said:

The gentleman from Indiana, Mr. Sanders, makes the point of order that the motion to discharge can not be applied to this bill because this bill could not be reported out by the Committee on Interstate and Foreign Commerce and was not properly before that committee for any action, and that therefore the House could not act upon it. The language of clause 4 of the rule certainly gives much countenance to that suggestion, because it provides in the beginning that no bill or joint resolution carrying an appropriation shall be reported by any committee not having jurisdiction to report appropriations, and on the face of it that would seem to prevent a committee not having that jurisdiction—as in the present instance, the Committee on Interstate and Foreign Commerce—from reporting out any such bill. But there is a subsequent sentence in the same clause which provides that a question of order on an appropriation in any such bill may be raised at any time.

That relieves the clause of the objection suggested by the gentleman from Ohio, Mr. Longworth, of destroying our Budget system, because at any time that point of order can be made

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[1] Hinds' Precedents, Vol. V, sections 6878–6880.

[2] First session Sixty-eighth Congress, Record, p. 7869.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

against the appropriation. Ever since the present occupant of the chair has been a Member of the House there has been a contention as to appropriating clauses in legislative bills. The Chair remembers that under Mr. Speaker Clark for several sessions he determined on the policy of referring every bill like this which carried an appropriation to the Appropriations Committee. Of course that naturally killed the bill, because the Committee on Appropriations could not report it out. The purpose of Mr. Speaker Clark was to indicate to Members of the House that they must not write appropriations in legislative bills.

While the first clause of the rule does say that no committee shall report out any bill of that kind, yet soon after this rule was adopted the Chair ruled upon it and held that the two clauses were contradictory and therefore that the committee might report out such a bill, the Chair stating very explicitly at the time that it was a new question and that he would welcome a decision by the House upon the question. The House apparently acquiesced in that decision, and that has been the rule since, and the Chair does not see why that does not cover the present case. While technically a committee has no authority under the present language of that clause to report out a bill carrying an appropriation, yet such committees have been reporting out such bills and the House has contented itself with the remedy of striking out the appropriation on a point of order. Therefore, although under the first sentence of that clause it would seem that the Interstate and Foreign Commerce Committee has not jurisdiction, the Chair thinks under the practice it has. The new rule provides that a Member may file a motion to discharge a committee from a bill or resolution which has been referred to it 30 days prior thereto. This bill certainly had been referred to the committee 30 days. The Chair overrules the point of order.

2145. A proposition to render an annual appropriation available until expended is in effect an appropriation for succeeding years and is not within the jurisdiction of a committee other than the Committee on Appropriations.

A point of order having been sustained against a provision of a bill called up on Calendar Wednesday, the House automatically resolved into the Committee of the Whole For consideration of the bill with the offending clause eliminated.

On July 27, 1921,[1] this being Calendar Wednesday, when the Committee on Agriculture was reached, Mr. Gilbert N. Haugen, of Iowa, from that committee, called up the joint resolution (S. J. Res. 72) for the relief of States in the Cotton Belt that have given relief aid to cotton farmers forced from the fields in established nonproduction zones through efforts to eradicate the pink bollworm.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the resolution provided for an appropriation in that it proposed to make a current appropriation available beyond the current fiscal year, and was therefore not within the jurisdiction of the Committee on Agriculture.

In discussing the point of order, Mr. James R. Mann, of Illinois, said:

Mr. Speaker, the bill contains two different things. It is specifically provided in this appropriation act that the appropriation shall be available beyond the fiscal year by the language "available until expended." The Agricultural appropriation act, as to this item referred to in this resolution, only makes the appropriation available for the current fiscal year. It seems to me that it may be a somewhat close question, whether the legislative committee has the authority to provide for the use of an appropriation already made by legislation for purposes other than those now in an appropriation act. But making an appropriation available beyond the fiscal year is making a new appropriation, and is clearly contrary to the rule of the House. Whether under the rule the question can be raised at any time, I believe the precedent is that it can be

[1] First session Sixty-seventh Congress, Record, p. 4350.

raised in the House before the bill is taken up in committee, and it can be raised, I assume, on the reading of the bill in committee, the Speaker having properly decided some time ago that it did not go to the reporting of the bill because otherwise the House could not take any action at all on a Senate bill carrying an appropriation.

After further debate, the Speaker [1] ruled:

The Chair will rule. The Appropriations Committee appropriated the sum of $554,840 for the eradication of the pink bollworm. That appropriation expires on the 1st of July next. The Agricultural Committee comes in with an amendment which would make a part of that appropriation available during the following year and until expended. In other words, it appropriates a certain portion of the $550,000 for succeeding years. The Agricultural Committee has no jurisdiction over appropriations, and it seems to the Chair that this clearly is an appropriation. The Chair sustains the point of order.

Thereupon, Mr. Haugen proposed to offer the joint resolution without the clause extending the appropriation.

The Speaker said:

The ruling of the Chair on the point of order strikes out the three words. Under the rule, the House resolves itself into Committee of the Whole House on the state of the Union for the consideration of Senate joint resolution 72, with Mr. Husted in the chair.

2146. A proposition to reappropriate or make available an appropriation previously made or to divert such appropriation to any purpose other than that for which originally made is equivalent to a direct appropriation and is not in order in connection with a bill reported by a committee without authorized jurisdiction to report appropriations.

Committees without jurisdiction to report appropriations may not report propositions to reappropriate appropriations or parts of appropriations already made.

On August 11, 1921,[2] on motion of Mr. Nicholas Longworth, of Ohio, from the Committee on Ways and Means, 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. 8107) to control the importation of dyes and chemicals, containing this section:

"That the appropriation 'Collecting the revenue from customs, 1922,' is hereby made available for the payment of salaries and all other expenditures incident to the operation of the dye and chemical section. Division of Customs, Treasury Department, for the fiscal year ending June 30, 1922."

When the Clerk reached this section in the reading of the bill, Mr. Joseph Walsh, of Massachusetts, made the point of order that it constituted an appropriation and as such was in violation of section 4 of Rule XXI.

The Chairman [3] held:

Section 3 of the bill reported by the Ways and Means Committee provides that the appropriation for collecting the revenue from customs for 1922 "is hereby made available for the payment of salaries and all other expenditures incident to the operation of the dye and chemical section, Division of Customs, Treasury Department, for the fiscal year ending June 30, 1922." To that section the gentleman from Massachusetts, Mr. Walsh, makes the point of order that it carries an appropriation reported by the Committee on Ways and Means, and that under the

[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session, Sixty-seventh Congress, Record, p. 4891.

[3] Phillip P. Campbell, of Kansas, Chairman.

rules of the House that committee has no jurisdiction over appropriations. Clause 4 of Rule XXI prohibits any other than the Committee on Appropriations from bringing in or making appropriations.

The Speaker a few days ago sustained a point of order in the bollworm case in which it was sought to make an appropriation already made, already available in the Department of Agriculture, available for a new purpose by the Secretary of Agriculture. The point of order was made that that could not be done in a bill reported by the Committee on Agriculture, and the Speaker sustained the point of order. The gentleman from Ohio, Mr. Longworth, cites a decision made by the present occupant of the Chair on the 23d of May of this year. That was an entirely different proposition. In that case an appropriation available for rations was transferred in a deficiency appropriation bill, reported by the appropriating committee, to another purpose, and the Chair held that that transfer could be made. The committee reporting the deficiency appropriation bill, having full jurisdiction, could have reported an original appropriation for the purpose for which the transfer was made. And in that case the Chair overruled the point of order. In this case it seems clear to the Chair that section 3 is an infringement on the jurisdiction of the Committee on Appropriations, and therefore sustains the point of order.

2147. Legislative direction that funds previously appropriated be used for a purpose not specified in the original appropriation was held to be an appropriation in contravention of section 4 of Rule XXI.

The rule forbidding consideration of appropriations in connection with bills reported by nonappropriating committees applies to Senate bills as to House bills.

On January 31, 1923,[1] when the Committee on Merchant Marine and Fisheries was reached in the Calendar Wednesday call of committees, Mr. William S. Greene, of Massachusetts, called up the bill (S. 1771) to acquire a fuel station in the Virgin Islands.

Mr. Thomas L. Blanton, of Texas, raised a question of order against a paragraph providing for the acquisition of a fuel station to be purchased from funds of the Shipping Board already appropriated as a revolving fund for the operation of ships.

Mr. George W. Edmonds, of Pennsylvania, took the position that the purchase of a fuel station was necessarily incident to the operation of ships and therefore within the authorization of the original appropriation.

Mr. Blanton insisted that the pending bill was an authorization to the Shipping Board to expend funds for a purpose not originally provided for, and constituted an appropriation within the purview of section 4 of Rule XXI.

The Speaker[2] decided:

It seems to the Chair at first blush that we are facing this alternative: The gentleman says there is confusion. If the money has already been appropriated, this legislation is not necessary. If it has not been appropriated, why is not this an appropriation, and therefore against the rule?

The Chair thinks that would be an appropriation. The Chair sustains the point of order.

2148. The language "payment therefor to be made from the appropriate appropriation" constitutes an appropriation, and is subject to a point of order when reported by a committee without authority to report appropriations.

A point of order against an appropriation reported by a committee without authority to report appropriations is in order at any time.

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[1] Fourth session Sixty-seventh Congress, Record, p. 2798; Journal, p. 169.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

Points of order against appropriations in bills from committees without authority to report appropriations are properly directed against the appropriating language only, and when sustained do not affect the remainder of the bill.

On December 10, 1930,[1] the House was considering the bill (H.R. 12412) to permit railroad and electric-car companies to provide mail transportation by motor vehicle in lieu of service by train, reported by the Committee on the Post Office and Post Roads.

During the time allotted to Mr. Archie D. Sanders, of New York, for debate, Mr. Carl R. Chindblom, of Illinois, asked recognition to submit a point of order.

Having been recognized by the Speaker[2] for that purpose, Mr. Chindblom objected to the last four lines of the bill, providing payment for motor transportation of mail "to be made from the appropriate appropriation for railroad transportation of mail messenger service," on the ground that it constituted an appropriation and was therefore outside of the jurisdiction of the Committee on the Post Office and Post Roads.

The Speaker ruled:

The language complained of by the gentleman from Illinois is as follows:

"Payment therefor to be made from the appropriate appropriation for railroad transportation and mail-messenger service or electric and cable car service."

It occurs to the Chair that this language refers directly to an appropriation already made, not an appropriation for the future or an authorization for the future. It is apparent that the existing appropriation to-day is only for the purpose of railroad transportation and mail-messenger service and electric and cable car service.

This bill proposes that the payment for transportation by bus lines can be made out of this existing appropriation.

In Cannon's Precedents, section 2146, is found the following syllabus of a decision analogous to the situation presented here:

"A proposition to reappropriate or make available an appropriation previously made or to divert such appropriation to any other purpose than that for which originally made is equivalent to a direct appropriation and is not in order in connection with a bill reported by a committee without authorized jurisdiction to report appropriations."

Also, in section 2147, is found the following:

"Legislative direction that funds previously appropriated be used for a purpose not specified in the original appropriation was held to be an appropriation in contravention of section 4 of Rule XXI."

Again in section 2154, is found the following:

"Direction to departmental officers to pay determinable amounts from unexpended balances is equivalent to an appropriation."

It has been held (Cannon's Precedents, sec. 2143) that—

"The point of order that a bill reported by a nonappropriating committee containing an appropriation is properly directed to the item of appropriation and not to the act of reporting the bill. If the point of order is directed to the item of appropriation, that item only is eliminated."

It seems quite clear to the Chair that this is a direct appropriation, and a point of order against those words having been made by the gentleman from Illinois, the Chair, following the decision just given, will rule that those words go out, but the rest of the bill stands.

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[1] Third session Seventy-first Congress, Record, p. 532.

[2] Nicholas Longworth, of Ohio, Speaker.

2149. Legislative direction for disbursements from Indian trust funds was held to constitute an appropriation within the meaning of section 4 of Rule XXI.

Discussion as to time at which the point of order may be made.

On February 3, 1923,[1] during consideration in the Committee of the Whole House on the state of the Union, of the bill (H.R. 13835) reported by the Committee on Indian Affairs and relating to tribal properties of Indians, Mr. Harold Knutson, of Minnesota, offered this amendment:

That the Secretary of the Interior be, and he is hereby, authorized to pay, out of any moneys belonging to the Chippewa Indians of Minnesota, such amounts as he may find due any person of Chippewa blood whose names may have been erroneously stricken from the Chippewa annuity rolls, etc.

Mr. Philip P. Campbell, of Kansas, made the point of order against the amendment that it involved an appropriation in connection with a bill reported by a committee without jurisdiction to report appropriations.

Mr. Knutson contended that the amendment proposed a restriction on the manner in which the money should be paid and was not an appropriation but a limitation, under section 2 of Rule XXI.

Mr. William H. Stafford, of Wisconsin, also objected that the point of order not having been reserved when the bill was read, it was now too late to lodge a point of order against the paragraph.

The Chairman[2] ruled:

Regarding the point raised by the gentleman from Wisconsin, Mr. Stafford, that if an objection be not made to the main body of the section it can not be raised to an amendment offered to it thereafter, the Chair thinks it is not well taken for the reason that the objection under the rule adopted in 1920 is specific that the objection can be made either to the original provision or to any amendment thereto and at any time.

The point of order raised by the gentleman from Kansas, Mr. Campbell, is very important. The Chair thinks that it should be brought within the requirement that appropriations are exclusively within the jurisdiction of the Appropriations Committee. It is true that this is not an appropriation from the Treasury of the United States, but it constitutes in fact an appropriation of money from the tribal funds which are under the control of the Government. Being under the control of the Government, it seems to the Chair that the same general rules should prevail and that the matter should be considered and passed upon by the Appropriations Committee.

Some years ago an amendment was offered on an appropriation bill which provided that "no money shall be expended from the tribal funds belonging to the Five Civilized Tribes." A point of order was made against this provision as not a limitation within the Holman rule, the grounds urged being that it was not a limitation on an appropriation from the Treasury. After an extended argument the objection was overruled. The effect of this ruling was to apply the same rule to tribal funds as to ordinary appropriations.

In this case the amendment to the section made provides for payment to certain designated persons out of tribal funds. The objection that such a provision is in excess of the authority of the committee would seem clearly within the rules and precedents. The mere fact that bills regarding trust funds need not be considered in Committee of the Whole would not be sufficient to overturn a direct precedent that direction for payment of tribal funds shall be considered an appropriation. For these reasons the Chair sustains the point of order.

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[1] Fourth session Sixty-seventh Congress, Record, p. 2988.

[2] Horace M. Towner, of Iowa, Chairman.

2150. The phrase "warranted and made available for expenditures" is equivalent to "is hereby made available" and is subject to a point of order under section 4 of Rule XXI.

Points of order under the rule apply to appropriations and not to the bill in which carried.

On June 6, 1921,[1] it being Calendar Wednesday, Mr. Gilbert N. Haugen, of Iowa, when the Committee on Agriculture was reached, called up the joint resolution (H. J. Res. 151), the last paragraph of which provided:

All moneys which are received by the Secretary of Agriculture prior to December 31, 1921, as deferred grazing fees shall be considered as receipts of the fiscal year 1921; and when the fees referred to in the above-mentioned act shall have been collected and deposited, they shall be warranted and made available for expenditure for payments to States and for payments for road purposes in the same manner as if they had been received on or before June 30, 1921.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the resolution carried an appropriation, which under section 4 of Rule XXI, the Committee on Agriculture was forbidden to report.

After extended debate the speaker[2] held:

The Chair understands the gentleman from Massachusetts to make the point of order that this bill is not properly before the House because it includes an appropriation which the Committee on Agriculture had no right to make. Now, the Chair, in conformity with the ruling that the Chair made some time ago, does not think that the point of order can be made that the bill is not properly before the House; in other words, that the committee could not report it. The committee could report it, but the point of order, if it is valid, can be made at any time against the particular clause.

Mr. Walsh having explained that his point of order was directed against the appropriating language and not the bill, the Speaker continued:

The point of order is that the bill makes an appropriation. The Chair regrets that this point of order was raised, because apparently this joint resolution is desirable; but, on the other hand, the Chair in his decision feels that he must for the sake of the future rightly construe the rules of the House regardless of the merits of the resolution. As has been argued, it is very clear that all the first part of the joint resolution does is to change legislation and make the receipts as of the fiscal year 1921. That clearly is in the jurisdiction of the Committee on Agriculture, and no other committee. But it seems to the Chair when it goes further and says when the fees referred to have been collected and deposited they shall be "warranted and made available for expenditures," that that is simply another phrase to say they shall be appropriated. No funds can be taken out of the Treasury without an appropriation, and unless those words were in the Chair does not see how they could be taken out of the Treasury this year. If, as has been suggested, these words are surplusage, then striking them out does not harm the bill at all, and that is all the point of order can do, just strike out that clause of the bill. So the Chair feels obliged to rule that this clause is tantamount to an appropriation, and sustains the point of order.

The bill can proceed with those words out. The point of order under the new rule can be made at any time. The gentleman from Massachusetts, instead of waiting until the House is in Committee of the Whole House on the state of the Union, exercised his right to make it now. The Chair feels constrained to sustain the point of order and hold that the last half dozen lines are subject to the point of order and must go out of the bill.

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[1] First session Sixty-seventh Congress, Record, p. 3384.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

2151. A provision that moneys covered into the Treasury "Shall constitute a special fund, as the Secretary may direct, for the payment of" certain expenses, was construed as carrying an appropriation.

The rule prohibiting consideration of appropriations in bills reported by nonappropriating committees or amendments thereto, applies to the language only and not to the bill or section in which carried.

When unanimous consent is given for consideration of a bill requiring consideration in the Committee of the Whole the requirement is thereby waived.

On January 19, 1925,[1] the House was considering the bill (H. R. 5939) to facilitate the work of the Forest Service, reading in part as follows:

That all moneys received as contribution toward reforestation or for the administration or protection of lands within or near the national forests shall be covered into the Treasury and shall constitute a special fund, which is hereby appropriated and made available until expended, as the Secretary of Agriculture may direct, for the payment of the expenses of said reforestation, administration, or protection by the Forest Service, and for refunds to the contributors of amounts heretofore or hereafter paid in by or for them in excess of their share of the cost.

Mr. Thomas L. Blanton, of Texas, made a point of order on the phrase "is hereby appropriated."

The Speaker pro tempore[2] having sustained the point of order, Mr. Gilbert N. Haugen, of Iowa, offered an amendment inserting in lie of that phrase the words "is hereby authorized to be appropriated."

Mr. Blanton thereupon raised a question of order, contending that his original point of order, having been sustained, applied to the action of the Committee on Agriculture in reporting the bill and, therefore, the bill was no longer before the House.

The Speaker pro tempore said:

In this case the Chair feels bound to sustain the point of order as a technical matter because of the words "is hereby appropriated." It is these words that the amendment tries to cure. As to striking out the whole bill, under the rules and precedents the point of order should be directed to the item in the bill and not to the whole bill, and so the Chair sustains the point of order to the objectionable words only.

The point of order should have been directed to the item, and that item is ruled out.

Whereupon, Mr. Carl R. Chindblom, of Illinois, submitted that the point of order, though not applying to the entire bill, did apply to the entire section in which the phrase occurred.

The Speaker pro tempore held:

The gentleman is right, that the words "hereby appropriated" should go out, and also that the words "made available until expended" should go out. It is perfectly clear to the Chair—and I assume that the chair made it clear to the House—that the point of order should be directed to the item in the bill, and not be applied to the entire bill and entire section.

Mr. Chindblom then made the point of order that the bill carried a direct appropriation in the following language, to wit:

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[1] Second session Sixty-eighth Congress, Record, p. 2002.

[2] Louis A. Frothingham, of Massachusetts, Speaker pro tempore.

"That all moneys received as contributions toward reforestation or for the administration or protection of lands—"

And so on.

"shall be covered into the Treasury and shall constitute a special fund for the payment of the expenses of said reforestation."

Mr. Chindblom argued:

This paragraph creates a special fund; it sets aside money for a specific purpose. The word "appropriation" as used in this rule is not the ordinary method of appropriating out of funds existing in the Treasury, but anything which sets aside money for a specific purpose is an appropriation.

The Speaker pro tempore decided:

Here is a special fund created by contributions. After that fund is created and put into the Treasury it has to be gotten out of the Treasury to be used, and consequently the Chair thinks it comes under the ruling made the other day by the gentleman from Connecticut and the precedents for the ruling, that it is an attempt to make an appropriation, and consequently the Chair sustains the point of order. The consequence is that if these words are stricken out the paragraph goes out because it leaves nothing to make sense.

The point of order being sustained, Mr. Haugen offered in lieu of the section stricken out the following amendment:

That all moneys received as contributions toward reforestation or for the administration or protection of lands within or near the national forests is hereby authorized to be covered into the Treasury and shall constitute a special fund which is hereby authorized to be appropriated and made available until expended, as the Secretary of Agriculture may direct, for the payment of the expenses of said reforestation, administration, or protection by the Forest Service, and for refunds to the contributors of amounts heretofore or hereafter paid in, by, or for them in excess of their share of the cost; but the United States shall not be liable for any damage incident to cooperation hereunder.

Mr. Chindblom made the point of order that the amendment was equivalent to a direct appropriation.

After debate, the Speaker pro tempore held:

The whole question, of course, is as to whether this makes an appropriation, or whether it authorizes an appropriation. As has been said, if language was inserted that clearly is an authorization, and was ruled out, it would be impossible for any authorization to be made effective by legislation. If that were so the Committee on Appropriations could not appropriate a fund, which would not then be liable to a point of order. The Chair thinks that the words now used in the amendment clearly constitute simply an authorization, and he overrules the point of order.

Mr. Edward E. Denison, of Illinois, then made the point of order that the bill authorized an appropriation and therefore could not be taken up in the House until considered and reported by the Committee of the Whole House on the state of the Union.

The Speaker pro tempore ruled:

When consent is given for the consideration of a bill upon this calendar, as has been given in this case, the proceedings are entirely in order.

When a bill is made a special order, or when unanimous consent is given for its consideration, the effect is to discharge the Committee of the Whole House on the state of the Union from its consideration, and bring the bill before the House for its consideration, and in such event the bill is considered in the House as in Committee of the Whole.

2152. 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,[1] 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 per cent 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[2] sustained the point of order.

Thereupon, Mr. Marvin Jones, of Texas, offered the paragraph in this form as an amendment.

(b) The proceeds of all taxes collected under this section shall be covered into the Treasury, and there are authorized to be appropriated amounts necessary for the payment of refunds under this section.

There was no objection.

2153. Authorization to expend receipts derived from the administration of a law, for administrative expenses, was held to be an appropriation and therefore not in order on a bill reported by a legislative committee.

On January 12, 1933,[3] the bill (H.R. 13991) to aid agriculture and relieve the existing national economic emergency, was under consideration in the Committee of the Whole House on the state of the Union.

The Clerk read a section which included the following paragraph:

The Secretary of Agriculture is authorized to expend for the payment of administrative expenses under this act not to exceed 2½ per cent of the annual receipts from adjustment charges and taxes under this act.

Mr. John Taber, of New York, made the point of order that the provision constituted an appropriation and was not in order on a bill reported by the Committee on Agriculture.

The Chairman[2] sustained the point of order.

Mr. Marvin Jones, of Texas, then modified the provision and it was considered and agreed to in this form:

Amounts appropriated for the payment of administrative expenses under this act shall be expended by or under the direction of the Secretary of Agriculture, but the amounts to be expended for such expenses under this act shall not exceed in the aggregate a sum equal to 2½ per cent of the total amount to be collected in adjustment charges and taxes under this act.

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[1] Second session Seventy-second Congress, Record p. 1670.

[2] Lindsay C. Warren, of North Carolina, Chairman.

[3] Second session Seventy-second Congress, Record, p. 1687.

2154. Direction to departmental officers to pay determinable amounts from unexpended balances is equivalent to an appropriation.

On November 9, 1921,[1] during consideration of the bill (S. 843) to provide relief in war contracts, a committee amendment was read which included the following:

If in claims passed upon under said act awards have been denied or made on rulings contrary to the provisions of this amendment, or through miscalculation, the Secretary of the Interior may award proper amounts or additional amounts, which shall be paid from the unexpended portion of the appropriation carried in said act.

Mr. William H. Stafford, of Wisconsin, made the point of order that the language was tantamount to an appropriation, and being reported by the Committee on Mines and Mining, was not in order.

After debate, the Chairman[2] ruled:

The question is rather a close one, involving two very interesting points.

The point raised by the gentleman from Minnesota, Mr. Anderson, that this committee would be permitted to authorize an appropriation, I think would not be contested. The question as to whether this is an authorization or not is a point in doubt, where it says that the Secretary of the Interior may award an additional amount, which shall be paid from the unexpended portion of the appropriation carried in said act. The Chair does not have any hesitancy in saying that an authorization does not necessarily require the word "authorize" to be used. Other language may be employed to mean the same thing, and the specific language would not change the ruling. Whether the Secretary of the Interior may award from the amounts or additional amounts carries an authorization or in addition an appropriation is a very close question. But assuming that it is merely an authorization, the language that follows it, namely, "which shall be paid from the unexpended portion of the appropriation carried in said act," is very strong, and, in the mind of the Chair, equivalent to or tantamount to an appropriation. If it is an appropriation, as the Chair is inclined to think it is, we have a decision directly in point, delivered August 11, 1921, in which we find the following principle was asserted:

"Language reported in a bill from a committee not having jurisdiction to report appropriations, and which reappropriates, makes available, or diverts an appropriation, or a portion of an appropriation already made for one purpose for or to another purpose is not in order."

There are other decisions along the same line.

The Chair admits it is a very close question whether other purposes than are found in the general act is clear, but the Chair is of the opinion that the language is broad enough to include other purposes, and for that reason he is compelled to sustain the point of order.

The Chair understands that the bill does not go off the calendar, because the point of order is directed only to the phraseology of the committee amendment.

2155. An amendment, substituting for authorization of appropriation a direct appropriation immediately available, was held not to be in order on a bill reported by a committee without jurisdiction to report appropriations.

On April 25, 1929,[3] the House, in the Committee of the Whole House on the state of the Union, was considering the bill (H. R. 1) to establish a Federal farm board to promote the effective merchandising of agricultural commodities in interstate and foreign commerce, and to place agriculture on a basis of economic equality with other industries.

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[1] First session Sixty-seventh Congress, Record, p. 7604.

[2] Simeon D. Fess, of Ohio, Chairman.

[3] First session Seventy-first Congress, Record, p. 547.

To a paragraph authorizing the appropriation of a revolving fund of $500,000,000, Mr. Charles R. Crisp, of Georgia, offered the following amendment:

There is hereby authorized to be appropriated the sum of $500,000,000, which shall constitute a revolving fund to be administered by the board, of which amount the sum of $100,000,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated, to be immediately available. The board is authorized to make loans and advances from the revolving fund as hereinafter provided. All such loans and advances shall bear interest at a rate to be fixed by the board. Repayments of principal upon any loan or advance shall be covered into the revolving fund. Payments of interest upon any loan or advance shall be covered into the Treasury of the United States as miscellaneous receipts.

Mr. Gilbert N. Haugen, of Iowa, made a point of order that the amendment proposed a direct appropriation.

The Chairman [1] sustained the point of order.

2156. Provision that disbursements "shall be paid from the appropriation made to the department for that purpose" was construed as an authorization merely and not an appropriation, and therefore not subject to a point of order under section 4 of Rule XXI.

On January 24, 1923,[2] the House was considering in the Committee of the Whole House on the state of the Union, the bill (H.R. 13773), the radio-control bill reported by the Committee on Merchant Marine and Fisheries, and containing the following paragraph:

The necessary expenses of the members of the committee in going to, returning from, and while attending meetings of the committee, including clerical expenses and supplies, together with a per diem of $25 to each of the six members not otherwise employed in the Government service, for attendance at the meetings, shall be paid from the appropriation made to the Department of Commerce for this purpose.

Mr. Thomas L. Blanton, of Texas, directed a point of order to the language "shall be paid from the appropriation made to the Department of Commerce for this purpose" contending that it was in effect an indirect appropriation reported by a committee without jurisdiction to report appropriations.

The Chairman [3] overruled the point of order and said:

The inspection of that language indicates that it is legislative in character. There is no other way for a legislative committee of the House to authorize the expenditure of expenses than by providing it in language in this way. If perchance there happens to be an appropriation available for that purpose, that does not mean that this bill is carrying an appropriation. It may affect the appropriation, but it does not carry one, and it is not the purpose of the rule restricting committees from making appropriations to prevent them considering and reporting legislative authorizations. It is clearly an authorization. Otherwise a legislative committee would not have any means of providing authorization for expenditure if perchance there happened to be some appropriation that might be available for that purpose.

The Chair overrules the point of order and sustains the former ruling, that is it not subject to a point of order.

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[1] Carl E. Mapes, of Michigan, Chairman.

[2] Fourth session Sixty-seventh Congress, Record, p. 2354.

[3] William H. Stafford, of Wisconsin, Chairman.

2157. A legislative provision crediting the general account of the District of Columbia was held not to be an appropriation within the purview of the rule.

On January 12, 1925,[1] when the bill (S. 703) for the adjustment of accounts between the United States and the District of Columbia was read for the first time in the Committee of the Whole House on the state of the Union, Mr. Louis C. Cramton, of Michigan, made the point of order that the bill proposed an appropriation in the following language:

"There shall be credited to the general account of the District of Columbia required under the provisions of the first paragraph of such act, to be kept in the Treasury Department, the following sums."

And then various sums are enumerated.

On page 3 it is set forth in line 5 and following that—

"The sum of $4,438,154.92, representing the difference between such credits and charges, is hereby made permanently available in such account of the District of Columbia for appropriation by the Congress for such purposes as it may from time to time provide."

After debate the Chairman[2] said:

The point of order of the gentleman from Michigan, Mr. Crampton, is that this bill carries an appropriation and therefore can not be reported by this committee, because the committee has no jurisdiction to report appropriations. He makes the point of order under section 4 of Rule XXI. The part applicable to this case is the first portion of the section, which the Chair will read:

"No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations."

The gentleman from Michigan maintains that in effect this bill makes an appropriation. In order to consider the matter from all sides let us turn it around for a moment. Suppose that the District of Columbia appropriation bill were pending before the committee and the gentleman from Maryland Mr. Zihlman should arise and attempt to offer this bill as an amendment to the appropriation bill on the ground that it is an appropriation. If the gentleman from Michigan were on guard, we should be very probably see him rise in his place and contend that it is not an appropriation, in order to keep it off his appropriation bill.

The question is whether it is, in fact an appropriation; and that raises the question of just what an appropriation is, in the sense in which it is used in the rule. It does not follow because the ultimate result would be to charge the Treasury with an additional $4,500,000 over and above that with which it is now charged that it is therefore an appropriation. As the Chairman understands, what in the last analysis constitutes an appropriation is the final authority for separating from the Treasury a sum of money carried in a bill.

It seems clear to the Chair that this bill does not carry an appropriation in the sense in which that word is used in the rules of this House. Therefore the Chair overrules the point of order made by the gentleman from Michigan.

2158. Authorization for withdrawal from the Treasury of money belonging to a governmental agency, even though it would otherwise eventually revert to the Government, was construed not to be an appropriation.

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[1] Second session Sixty-eighth Congress, Record, p. 1714.

[2] John Q. Tilson, of Connecticut, Chairman.

Payment of a claim from surplus funds of the Sugar Equalization Board, a corporation created by act of Congress, the assets of which are by law converted into the Treasury upon liquidation of the corporation board, was held not to be subject to a point of order under section 4 of Rule XXI.

On April 14, 1926,[1] it being Calendar Wednesday, Mr. Gilbert N. Haugen, of Iowa when the Committee on Agriculture was reached in the call of committees, called up the following bill:

Be in enacted, etc., That the President is authorized to require the United States Sugar Equalization Board (Inc.) to adjust with Robert A. Watson, of South Orange, N.J., a certain transaction entered into and carried on by said Watson under the direction of the Department of Justice, which transaction involved the purchase in the Argentine Republic between the 11th day of June, 1920, and the 30th day of June, 1920, of 3,500 tons of Argentine refined sugar, the importation thereof into the United States, and the distribution of the same within the United States, and to require the said United States Sugar Equalization Board (Inc.) to liquidate and adjust the entire transaction in such manner as may be deemed and said board to be equitable and proper in the premises, paying to the said Watson such sums as may be found by said board to represent the actual loss sustained by him in said transaction, and for this purpose the President is authorized to vote or use the stock of the corporation held by him, or otherwise exercise or use his control over the said United States Sugar Equalization Board and its directors, and to continue the said corporation for such time as may be necessary to carry out the intention of this act.

Mr. David H. Kincheloe, of Kentucky, made the point of order that the bill, although reported by the Committee on Agriculture, provided for an appropriation.

Mr. Frederick R. Lehbach, of New Jersey explained:

The record in this instance is the books of the Treasury and the books of the corporation.

They show that this money belongs to and is in the possession of the corporation. Would the gentleman hold, in accordance with his argument, that the retirement fund, made up of contributions by the employees for the purpose of paying for their retirement, being in the physical possession of the Treasury, therefore belongs to the Treasury as its own funds? The mere presence of the money in the Treasury does not make it the property of the United States Government.

This corporation, the Sugar Equalization Board, was created by an act of Congress.

The funds do not belong to the Government until the Sugar Equalization Board goes into liquidation. At that time, under the law creating the board, the money is paid into the Treasury.

The Speaker[2] ruled:

It appears to the Chair that this money arises from the profits made by the corporation. And this payment would have no connection with the Treasury.

The point of order is that this is an appropriation, and the Committee on Agriculture has no authority to report an appropriation.

This money is no part of the Treasury funds. This money was made by the corporation in the ordinary transaction of business, and amounts, as the Chair understands, to about $30,000,000, which is owned by the corporation.

If that be the fact, the Chair thinks that this is not an appropriation in the sense of its taking money out of the United States Treasury, and therefore overrules the point of order.

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[1] First session Sixty-ninth Congress, Record, p. 7456.

[2] Nicholas Longworth, of Ohio, Speaker.

2159. Language authorizing payments from appropriations for purposes for which originally made does not propose an appropriation.

Provision that the cost of certain surveys should be paid "from appropriations made for that purpose" was held not to come within the inhibition of the rule.

On June 3, 1926,[1] the House in the Committee of the Whole House on the state of the Union was considering the river and harbor bill, when the Clerk read the following committee amendment:

The Secretary of War is hereby authorized and directed to cause preliminary examinations and surveys to be made at the following-named localities, the cost thereof to be paid from appropriations made for that purpose."

Mr. Carl E. Mapes, of Michigan, made the point of order that the amendment proposed an appropriation.

The Chairman[2] said:

The Chair overrules the point of order. The amendment does not make available any money not appropriated and, therefore, it is not in itself an appropriation. It is not subject to a point of order. The question is on agreeing to the committee amendment.

2160. Provision for redemption at the treasury of adjustment certificates issued by the Secretary of Agriculture in administration of the Farm Relief Law and drawn on a special fund provided for the purpose was held not to constitute an appropriation within the meaning of section 4 of Rule XXI.

On January 11, 1933,[3] the bill (H. R. 13991), the farm relief bill, was under consideration in the Committee of the Whole House on the state of the Union when, in the reading of the section dealing with the issuance of adjustment certificates to producers who complied with the provisions of the bill pertaining to reduction of acreage, this clause was reached:

Certificates shall be accepted for redemption at the United States Treasury.

Mr. John Taber, of New York, made the point of order that the provision amounted to an appropriation and was therefore a violation of clause 4 of Rule XXI, prohibiting the report of bills carrying appropriations by other committees than the Committee on Appropriations.

Mr. Marvin Jones, of Texas, explained[4] that the certificates were payable from a special fund provided from taxes authorized by the bill for the purpose and said:

In the latter part of the bill provision is made for an appropriation for these certificates. It was the intention to have redemption depend on the money being made available for that purpose. That means that if a man presents a certificate, if there is any money there, he will be paid, but if there is not he will take it home. I think there will be money if the necessary appropriation is made for the purpose of carrying out the provisions of the bill.

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[1] First session Sixty-ninth Congress, Record, p. 10682.

[2] Frederick R. Lehlbach, of New Jersey, Chairman.

[3] Second session Seventy-second Congress, Record, p. 1602.

[4] Record, p. 1604.

The Chairman [1] held:

The Chair does not think that a method providing for the redemption of such certificates could be construed as an appropriation, nor does the chair think the language comes within the restrictions provided in Rule XXI, clause 4, and therefore overrules the point of order.

2161. Instance wherein a select committee created by resolution was continued by law beyond the expiration of the term of the Congress.

Form of resolution creating a select committee.

Form of enactment continuing a select committee into the next Congress.

Bills reported by special committees authorized to report at any time are privileged.

On July 3, 1930,[2] the House agreed to the following resolution:

Resolved, That the Speaker is authorized and directed to appoint a select committee to be composed of seven Members of the House, whose duty it shall be to investigate the various elements, factors, and conditions which may be deemed pertinent and essential to the accumulation of data and information bearing upon the question of fiscal relations between the United States and the District of Columbia and to recommend to the House what amount, in their judgment, the United States should contribute annually toward the development and maintenance of the municipality.

SEC. 2. Such committee is also authorized and empowered to investigate fully the various forms of municipal taxation and sources of revenue of the District of Columbia and to recommend to the House such new forms of taxation and sources of revenue and/or such changes in existing forms of taxation and sources of revenue as to them may seem just and fair.

SEC. 3. The committee is authorized to sit during the sessions and recesses of the House, to hold hearings, to require the attendance of witnesses, to compel the production of books, papers, and documents, and to take testimony.

SEC. 4. The committee shall have the right to report to the House at any time by a bill or bills, or otherwise, the results of its investigations.

SEC. 5. The necessary expenses of the committee are hereby authorized, including the employment of personal services. Any printing and binding may be charged to the appropriation for printing and binding for Congress.

SEC. 6. The Commissioners of the District of Columbia and the other officers and employees of the municipal government are requested to furnish the committee such assistance as may be needed in connection with such investigations, and the United States Bureau of Efficiency may be reimbursed from any allotment made for carrying out the purposes of this resolution to the extent of actual expenditures made by such bureau for investigations made at the request of the committee.

Pursuant to the resolution the select committee was appointed and, not having completed its work at the close of the session, was continued under the act approved February 23, 1931,[3] as follows:

Those members of the select committee on fiscal relations, House of Representatives, appointed pursuant to House Resolution Numbered 285, Seventy-first Congress, who are Members elect to the Seventy-second Congress, or a majority of them, during the period from March 4 to December 31, 1931, inclusive, are hereby authorized to continue the investigations and to have the authority and privileges provided in such House resolution. Any unobligated committee from the

[1] Lindsay C. Warren, of North Carolina, Chairman.

[2] Second session Seventy-first Congress, Record, p. 12530.

[3] 46 Stat. L., p. 1377

contingent fund of the House under the authority of House Resolution Numbered 329, Seventy-first Congress, shall remain to the credit of such committee as continued hereby, to be paid out on the usual vouchers approved as now provided by law.

On December 15, 1931,[1] Mr. Carl E. Mapes, of Michigan, from the select committee, submitted the bill (H. R. 5821), to provide for the taxation of incomes in the District of Columbia, to repeal certain provisions of law relating to the taxation of intangible personal property in the District of Columbia, and for other purposes, together with a report on the bill, which was referred to the Committee of the Whole House on the state of the Union and ordered printed.

Mr. William H. Stafford, of Wisconsin, inquired if the bill was to be considered as privileged.

The Speaker[2] said:

The bill is privileged under a resolution passed by the last Congress. Section 4 of House Resolution 285, passed by the Seventy-first Congress, reads as follows:

"The committee shall have the right to report to the House at any time by a bill or bills, or otherwise, the results of its investigations."

The authority of this resolution was later extended by the act of February 23, 1931.

2162. Under the rules, bills are referred to the standing committees and not to select committees unless by action of the House.

On April 13, 1932,[3] Mr. Carl Vinson, of Georgia, rising to a parliamentary inquiry, asked if it would be in order to refer certain bills which he proposed to introduce, to a select committee known as the Economy Committee, appointed February 24, 1932,[4] pursuant to House Resolution No. 151.

Mr. Vinson explained that the bills would come regularly within the jurisdiction of the Committee on Naval Affairs, but because of the economies which they proposed to effect, he desired to have them referred to the select committee.

The Speaker[2] said:

The rule requires that all bills should be referred to standing committees. The Economy Committee expires at the close of this session. The Chair thinks the better policy would be to refer them to the standing committees.

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[1] First session Seventy-second Congress, Record, p. 554.

[2] John N. Garner, of Texas, Speaker.

[3] First session Seventy-second Congress, Record, p. 8139.

[4] Record, p. 4634.

Chapter CCXXXIII.[1]

SELECT AND JOINT COMMITTEES.

2163. A House of Congress may not make reference to a joint committee when such reference is not contemplated by the act creating the committee.

On May 27, 1921,[2] in the Senate, Mr. Medill McCormick, of Illinois, introduced the bill (S. 1896) to create the department of public works and public lands, and proposed that it be referred to the Joint Committee on the Reorganization of the Administrative Branch of the Government.

Mr. Oscar W. Underwood, of Alabama, raised the question of order on the proposed reference and said:

> I do not see how we can refer a Senate bill for consideration to a joint committee of the two Houses. The committees that report on bills to the Senate are Senate committees, and unless some special action of the Senate is taken to authorize a joint committee to make a report to the Senate I do not see how we can properly refer a bill to such a committee. I do not understand how we can receive a report to the Senate from a committee that is composed in part of Members of the House of Representatives. They may not represent the action of the Senate, and we have no control over such a committee. I think the reference of a Senate bill should be to a Senate committee and not to a joint committee of the two Houses. I desire to make the point of order that we can not refer this bill to a joint committee in that way. To get the measure before a joint committee of the two Houses would require the joint action of the two Houses. I do not desire to become involved in what would be bad practice in a matter we could not control. I have no desire to interfere with the reference of the bill to any Senate committee the Senator from Illinois may suggest, but I do not think we can send a bill to a joint committee which we have no control.

The President pro tempore[3] sustained the point of order, and on request of Mr. McCormick the bill was referred to the Committee on Expenditures in the Executive Departments.

2164. A joint committee created by statute is not susceptible to control by one House and its duties may not be enlarged or diminished by either House acting independently.

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[1] Supplementary to Chapter CIII.

[2] First session Sixty-seventh Congress, Record, p. 1823.

[3] Albert B. Cummins, of Iowa, President pro tempore.

Suit having been filed against members of a joint committee, the House granted permission to the members on the part of the House to enter appearance in response to judicial process, while the Senate declared it to be an invasion of constitutional privilege and directed the Senate members of the committee to make no appearance in response thereto.

The issuance of legal process against Members of the Congress gives rise to a question of high privilege in their respective Houses.

Membership on joint committees created by statute is not an office in the contemplation of the constitutional provision prohibiting Members of Congress from holding simultaneously over offices under the United States.

No Member can waive the privileges of the House except by express consent thereof.

An instance in which the House decided it is without power to construe statutes which it enacts.

The court in which a Member is challenged was held by the House to be the proper forum in which to plead constitutional exemption and privilege.

Decision of Federal court maintaining jurisdiction of suit brought against Members in their official capacity.

On February 7, 1910,[1] Mr. David E. Finley, of South Carolina, rising to a question of the privileges of the House, submitted the following:

Whereas Allen F. Cooper, George C. Sturgiss, and David E. Finley, Members of the House of Representatives, and constituting the Committee on Printing, and along with three members of the Senate, constituting the Joint Committee on Printing, have at the instance of the Valley Paper Company (Incorporated), plaintiffs, been sued in the Supreme Court of the District of Columbia as members of the Joint Committee on Printing of Congress, calling in question their action as members of such joint committee in rejecting the proposals of the said Valley Paper Company (Incorporated) for furnishing paper for public printing and binding for the period from March 1, 1910, to February 28, 1911, as was done by said Joint Committee on Printing of Congress at the present session of Congress; and

Whereas it is sought by the said plaintiffs or petitioners that a writ of mandamus be issued and directed against said members of the Joint Committee on Printing of Congress, to wit, the three Members of the Senate, who, together with the three Members of the House above mentioned, constitute the said joint committee, commanding them to with draw awards which have heretofore been made and to award said contracts to the plaintiffs; and

Whereas the following rule to show cause has been issued by Mr. Justice Wright in the Supreme Court of the District of Columbia, to wit:

In the Supreme Court of the District of Columbia.

THE VALLEY PAPER COMPANY (INC.), PLAINTIFF, *v.* THE JOINT COMMITTEE ON PRINTING OF CONGRESS, composed of REED SMOTT, JONATHAN BOURNE, Jr., DUNCAN U. FLETCHER, GEORGE C. STURGISS, ALLEN F. COOPER, and DAVID E. FINLEY, respondents.	At law, No.—.

RULE TO SHOW CAUSE.

Upon consideration of the petition of Valley Paper Company filed herein this 2d day of February, 1910, it is by the court this 2d day of February, 1910, ordered that the respondents,

[1] Second session Sixty-first Congress, Record, p. 1541.

the said Reed Smoot, Jonathan Bourne, jr., Duncan U. Fletcher, George C. Sturgiss, Allen F. Cooper, and David E. Finley, members of the Joint Committee on Printing of Congress, show cause, if any they may have, on or before the 11th day of February, 1910, at 10 o'clock a.m., why a writ of mandamus should not be issued as prayed in said petition; provided a copy of said petition and this rule be served upon said respondents, members of the Joint Committee on Printing of Congress, on or before the 7th day of February, 1910.

WRIGHT, *Justice.*

A true copy.
Test:
J. R. YOUNG, *Clerk,*
By H. BINGHAM,
Assistant Clerk.

Resolved, That it be referred to the Committee on the Judiciary of the House of Representatives to inquire and report what action the House of Representatives should take in the premises, and particularly in the matter of instructing the said Allen F. Cooper, George C. Sturgiss, and David E. Finley as to the course they should pursue in the premises.

In speaking to the resolution, Mr. Finley said:

The Committees on Printing of the House and Senate, constituting the joint committee, have considered the matter, and at a meeting this morning action was taken directing me, so far as the House is concerned, to offer this preamble and resolution. We are of the opinion that should we appear in court and answer that proceeding without first obtaining the instruction of the House, we would be guilty of a breach of privilege and liable to censure.

Mr. Speaker, this is in accordance with the instruction of my colleagues on the committee. We are of the opinion that a Member of Congress can not waive his privilege as a Member of Congress, that if he should do so without first obtaining permission of the House he would lay himself liable. The precedents are numerous that an officer of the House can not have a writ of this character issued against him. It has been attempted more than once in the British Parliament and the rule that I have cited holds good. This is the first time in the history of the Government that a committee of Congress has been sued. So that the question is, if the action of Congress or the action of a committee of Congress or a Member of Congress, can be called in question by any court in all the land, when a committee of Congress or a Member of Congress acts in that capacity, then the distinction that is fundamental in the law of the land, defining the three departments of the Government, the executive, the legislative, and the judicial, will be broken down.

After brief debate the resolution was agreed to, and on February 10,[1] Mr. William G. Brantley, of Georgia, from the Committee on the Judiciary, submitted as privileged the report[2] of the majority of the committee.

The majority report stressed the consideration due coordinate branches of the Government by the House of Representatives, holding:

Your committee believes that while the House of Representatives should be diligent in the preservation of its dignity and of its prerogatives, it should also pay due regard at all times to the dignity and prerogatives of the other coordinate branches of the Government.

The minority views, however, say:

That the committee is a committee of Congress acting for the two Houses and not subject to suit at law. And this legislative power and discretion of Congress to direct and control its printing, the purchase of its stationery and the like, can not be abridged or interfered with by the courts.

There are many like examples. The Committee on the Library originally had the duty of purchase of books for the information of Congress in the Library of Congress. That library has

[1] Record, p. 1723.
[2] Report No. 432.

grown so that it is now managed by outside officers under a law, but that law still recognizes a supervisory control in certain matters as belonging to the Committee on the Library of the two Houses. Whenever the Joint Committee on Printing has anything to do with the public printing it acts solely as a committee of the two Houses. The Secretary of the Interior, when he acts at all in the matter of the public printing, acts as an officer. In his case he may be amenable to court action, but the committee of Congress can not be subjected to court process because the legislative department in the discharge of its functions must be forever independent of the judicial department.

We are unwilling to allow a general appearance which will admit, even for this particular case, that the committees of this House are responsible to any authority except the House itself.

The majority report considers membership on the Joint Committee on Printing as statutory and therefore beyond the authority and control of the House, and finds:

The Joint Committee on Printing of Congress is created by statute, and not by the rules of either House of Congress. The members of said committee are Members of Congress, and must be such Members under the statute, but the duties they perform are prescribed and defined by law,

Your committee knows of no authority that the House of Representatives has to control or direct the action of said joint committee, and knows of no way by which its duties can be enlarged or diminished or direction given to its work, other than by and through the enactment of some additional law.

The views of the minority combat this position and contend:

The undersigned dissent from the views of the majority of the committee. The Joint Committee on Printing of Congress, in our opinion, is not a mere creature of a statute. It is appointed under rules of the House of Representatives and the Senate. The appointment of the House Members is provided for in Rule X of the House, and the jurisdiction of the committee is defined under House Rule XI. This committee is the creature of Congress. The House Members are provided by House action, and the Senate Members are provided by Senate action. Manifestly this joint committee, created in this way by the two Houses of Congress, was, for the convenience of the two Houses, for the proper discharge of the legislative functions of the Congress, composed of the two Houses. Of course, the House and the Senate could have provided some other way for their necessary printing and the like, but the two Houses of Congress have seen fit to adopt this plan of a joint committee to control the printing, and so forth, of the two Houses. This committee is not appointed by the statute. No legislature can bind any subsequent legislature. Any Senate or any House of Representatives of any Congress may at any time refuse to appoint members of this joint committee. They are not created by and do not hold under a statute.

It is true that when so appointed by the Senate and House of Representatives they receive aid from a statute. Such aid is often granted to different committees in their legislative duties, it being necessary, in the opinion of the two Houses, for the more convenient discharge of their duties to have power conferred upon the committee. For example, it is often necessary that a joint committee of investigation—such as the committee now investigating the Interior Department and the Bureau of Forestry—should have money for its expenses and should have power to enforce process by subpoena, which can be obtained only by law. That law, however, so far as it creates such a committee, is in the nature of a concurrent resolution. A concurrent resolution of both Houses is included in such a law, and the law being for the appointment of a committee for the information of the two Houses, the committee is subject only to the control of those Houses. The law is in aid of their legislative duties and not in derogation therefrom. The printing of bills, House and Senate documents, the Congressional Record, and the executive documents was and is primarily for the information of Congress—a necessary part of its legislative business. The proper publication of the laws enacted by Congress is essential to their validity. Congress either directly or through its committees and each House of Congress have from the beginning exercised a control over the public printing. The printer was formerly called the "Congressional Printer," and was elected by the joint action of the two Houses. It is true that the

scope of the work of the Public Printer has been enlarged perhaps to an extent not thought of in the early days of the Republic. It includes a mass of public documents which are for the information of the people as well as for that of Congress, but which are primarily for the information of Congress and in order to secure good legislation.

Instead of making separate contracts for printing, as was done by Congress in the early days, a supervisory control of the work of the Printing Office is allowed to the Joint Committee on Printing, including the ordering of such emergency documents as may be needed, the selection of the standard of paper, and, in this particular case, the determination by their award as if they were a committee of arbitration, which particular bid is "lowest and best for the interests of the United States." This function of supervision of public printing is one necessarily belonging to the Houses of Congress, so far as the congressional printing is concerned. Such supervision is a legislative act, and the fact that it incidentally affects the other public printing does not make any action of the joint committee in that regard any the less a legislative act.

As to whether the duties of the joint committee are legislative or executive, the reports decline to determine, deeming that question to be irrelevant to the issue presented, although it does differentiate:

Your committee would entertain a different view of the matter if it clearly and conclusively appeared that the acts of the Members complained of were performed under rule or order of the House and not under statute and if it likewise was entirely clear that said acts were legislative and not executive in character.

The minority, however, insist:

The functions of the joint committee in the matter complained of were not a statutory executive duty. They were purely of judgment and discretion, for the contracts are to be awarded by them to the lowest and best bidder in the interest of the Government. Their functions in this matter are not executive, but purely of judgment and discretion as a committee as to what proposals are lowest and best for the interest of the Government. A careful examination of the statute with reference to public printing will show that no executive functions are intrusted to the joint committee. Everything executive is to be done by the Public Printer, and the joint committee only advise, decide, and award, and all this is done the discharge of a necessary authority of the two Houses of Congress—of Congress itself to provide for the printing of the Record, documents, and so forth.

Also, the majority deem it beyond the province of the report to consider whether the suit is against Members of Congress, or against a legal entity created by act of Congress.

But the minority maintain:

It is evident from the process of the court which has been served upon the Representatives named in the preamble to the resolution that whatever acts have been performed or have not been performed by the members of the joint committee were solely in the discretion of the members of the committee as Members of Congress, and it is also evident from the same process that the action of the committee is sought to be reviewed by a writ of mandamus after the act has been performed. A writ of mandamus will not lie for such purposes.

To hold that the members of the joint committee are answerable to court process would be to hold that they are officers within the meaning of the Constitution, and might render nugatory the act which was intended solely to aid the joint committee of the two Houses conveniently and properly to discharge a duty necessarily incidental to the full exercise of the legislative powers of Congress. The inconveniences which would attend the recognition of such a suit are manifold. Members are to be summoned from their legislative duties to appear in court. If judgment goes against them they are in contempt, but no process of contempt, under the Constitution, can issue against them while are engaged in their legislative duties. These members are now so engaged.

It is impossible that any Member of Congress can become an officer under the United States, because upon his becoming such officer he can no longer be a Member of either House, for the reason that "no person holding any office under the United States shall be a Member of either House during his continuance in office." Any statute in question should not be construed as adding any official powers, but only as aiding the committee properly to carry on their work. There is no power conveyed in the statute in question which is inconsistent with the legislative duties of the committee. In fact, as already stated, it is only in aid of their functions as legislators.

The minority therefore conclude that two courses are open:

The first course is to resolve that the judge in granting and issuing the rule to show cause in the mandamus proceedings, and in causing the same to be served upon the Members of the House, thereby unlawfully invaded the constitutional privileges and prerogatives of the House and of its Members, and that the court was without jurisdiction to grant said rule, and that the Representatives should be directed to make no appearance in response thereto.

The second course would be to amend the resolution as reported by the majority of the committee by striking out all after the words "they are thereby granted permission to enter an appearance in response to said rule for the purposes of pleading to the jurisdiction of the court," and inserting in lieu thereof "and if necessary to prosecute an appeal or writ of error from any judgment therein, and for such purpose they are hereby authorized and permitted to absent themselves from the sessions of the House."

On the contrary the report of the majority holds:

Upon the whole, therefore, your committee concludes that there is at least sufficient doubt upon all the questions raised by the said court proceeding, in so far as they may directly or indirectly involve the dignity of the House, to authorize a response to the writ of the court and their consideration in the forum of the judiciary.

In support of this position the report continues:

The Constitution does not exempt any laws or statutes enacted by Congress from judicial construction and enforcement and Congress can not write into the Constitution any limitation upon the judicial power.

It is sufficient to direct attention to the fact that said legal proceeding has been instituted and is based upon a law of the land, and that the acts of the Members of this House complained of are alleged to have been performed under and by virtue of a statute imposing certain duties and not by virtue of any duties imposed by rule or order of the House. Your committee does not believe that Congress has any power to construe the statutes that it enacts, and that regardless of any individual opinions as to the meaning of the particular statute in question and regardless of any individual opinions as to who is or is not exempt from the power of the courts to enforce obedience to said statute, we are of the opinion that the court is the proper forum before which to plead exemption and privilege and by which to interpret and expound the meaning of the statute involved.

And we are further of the opinion that due and orderly procedure and a proper respect for the judicial department of the Government requires that the writ of the court in this particular matter should be responded to.

The report further says:

Your committee has not overlooked the fact that, under the rules and precedents of the House, no Member thereof can waive the privileges of the House except by the express consent of the House, and in order to save all questions of privilege we think it would be advisable for the House to grant permission to the three Members involved to make response to the order of the court.

Accordingly, the majority reports recommend the adoption of the following:

Whereas the Supreme Court of the District of Columbia, at the instance of the Valley Paper Company (Incorporated) as plaintiff, has caused to be served on Allen F. Cooper, George C.

Sturgiss, and David E. Finley, Members of this House, a rule to show why writ of mandamus should not issue against them as members of the Joint Committee on Printing of Congress, by reason of their alleged action as members of such committee in rejecting certain proposals of the said Valley Paper Company (Incorporated) to furnish certain paper for public printing and binding: Now, therefore,

Resolved by the House of Representatives, That the said Allen F. Cooper, George C. Sturgiss, and David E. Finley be, and they are hereby, granted permission to enter an appearance in response to said rule, for the purpose of pleading to the jurisdiction of the court, and taking such further action and interposing such further defenses as to them may seem proper, and for all such purposes they are hereby authorized and permitted to absent themselves from the sessions of the House.

At the close of lengthy debate on the question, Mr. Richard Wayne Parker, of New Jersey, proposed to amend the resolution to read as follows:

Resolved by the House of Representatives, That the said Allen F. Cooper, George C. Sturgiss, and David E. Finley be, and they are hereby, granted permission to enter an appearance in response to said rule for the purpose of pleading to the jurisdiction of the court, and if necessary to prosecute an appeal or writ of error from any judgment therein, and for such purpose they are hereby authorized and permitted to absent themselves from the sessions of the House.

The amendment being rejected, Mr. Henry D. Clayton, of Alabama, offered this substitute:

Resovled, That Justice Wright, of the Supreme Court of the District of Columbia, in granting and issuing the following rule to show cause why a writ of mandamus should not be issued, to wit:

In the Supreme Court of the District of Columbia. The Valley Paper Company (Incorporated) plaintiff, *v.* The Joint Committee on Printing of Congress, composed of Reed Smoot, Jonathan Bourne, Jr., Duncan U. Fletcher, George C. Sturgiss, Allen F. Cooper, and David E. Finley, respondents. At law, No.—.

RULE TO SHOW CAUSE

Upon consideration of the petition of the Valley Paper Company filed herein this 2d day of February, 1910, it is by the court this 2d day of February, 1910, ordered that the respondents, the said Reed Smoot, Jonathan Bourne, Jr., Duncan U. Fletcher, George C. Sturgiss, Allen F. Cooper, and David E. Finley, members of the Joint Committee on Printing of Congress, show cause, if any they may have, on or before the 11th day of February 1910, at 10 o'clock a.m., why a writ of mandamus should not be issued as prayed in said petition: provided a copy of said petition and this rule be served upon said respondents, members of the Joint Committee on Printing of Congress, on or before the 7th day of February 1910.

WRIGHT, *Justice.*

A true copy.
Test:

L. B. YOUNG, *Clerk.*
By H. BINGHAM, *Assistant Clerk.*

against three Member of this body named in said rule, to wit, Representatives George C. Sturgiss, Allen F. Cooper, and David E. Finley, and in causing the said rule to be served upon them, in the opinion of the House of Representatives, thereby unlawfully invaded the constitutional privileges and prerogatives of the House of Representatives and of said Representatives, and was without jurisdiction to grant said rule; and said Representatives are directed to make no appearance in response thereto.

The yeas and nays being ordered on the question of agreeing to the substitute, the yeas were 56, nays 173, and the substitute was rejected.

The resolution submitted in the majority report was then agreed to.

On February 7, 1910[1] in the Senate Mr. Reed Smoot, of Utah, offered as a privileged matter, the following:

Whereas Reed Smoot, Jonathan Bourne, jr., and Duncan U. Fletcher, Members of the United States Senate, who, together with three Members of the House of Representatives constituting the Joint Committee on Printing of Congress, have at the instance of the Valley Paper Company (Incorporated), plaintiffs, been sued in the Supreme Court of the District of Columbia, as members of the Joint Committee on Printing of Congress, calling in question their action as members of such joint committee, in rejecting the proposal of the said Valley Paper Company (Incorporated) for furnishing paper for public printing and binding for the period from March 1, 1910, to February 28, 1911, as was done by said Joint Committee on Printing of Congress at the present session of Congress; and

Whereas it is prayed by the said plaintiffs or petitioners that a writ of mandamus issue directing said members of the Joint Committee on Printing of Congress, to wit, that they withdraw awards which have heretofore been made and that they award certain contracts to the plaintiffs; and

Whereas the following rule to show cause has been issued by Mr. Justice Wright, of the Supreme Court of the District of Columbia, to wit:

In the Supreme Court of the District of Columbia.

THE VALLEY PAPER COMPANY (INCORPORATED), plaintiff,
v.
THE JOINT COMMITTEE ON PRINTING OF CONGRESS, composed of REED SMOOT, JONATHAN BOURNE, Jr., DUNCAN U. FLETCHER, GEORGE C. STURGISS, ALLEN F. COOPER, and DAVID E. FINLEY, respondents.
} At law, No.—.

RULE TO SHOW CAUSE.

Upon consideration of the petition of the Valley Company field herein this 2d day of February, 1910, it is by the court this 2d day of February, 1910, ordered that the respondents, the said Reed Smoot, Jonathan Bourne, Jr., Duncan U. Fletcher, George C. Sturgiss, Allen F. Cooper, and David E. Finley, members of the Joint Committee on Printing of Congress show cause, if any they may have, on or before the 11th day of February, 1910, at 10 o'clock, a.m., why a writ of mandamus should not be issued as prayed in said petition; provided a copy of said petition and this rule be served upon said respondents, members of the Joint Committee on Printing of Congress, on or before the 7th day of February, 1910.

WRIGHT, *Justice.*

A true copy:
Test:
J. R. YOUNG, *Clerk.*
BY H. BINGHAM, *Assistant Clerk.*

Therefore be it

Resolved, That said rule be referred to the Committee on the Judiciary to inquire and report what action the Senate should take in the premises and particularly in the matter of instructing the said Reed Smoot, Jonathan Bourne, Jr., and Duncan U. Fletcher, as to the course they should pursue in the premises.

The resolution was agreed to and on February 10,[2] Mr. Clarence D. Clark of

[1] Second session Sixty-first Congress, Record p. 1516.

[2] Record, p. 1684.

Wyoming, from the Committee on the Judiciary, presented a report [1] thereon embodying this resolution:

Resolved, That Justice Wright, of the Supreme Court of the District of Columbia, in granting and issuing the following rule to show cause why a writ of mandamus should not be issued, to wit:

In the Supreme Court of the District of Columbia.

The Valley Paper Company (Incorporated), plaintiff, *v.* The Joint Committee on Printing of Congress, composed of Reed Smoot, Jonathan Bourne, jr., Duncan U. Fletcher, George C. Sturgiss, Allen F. Cooper, and David E. Finley, respondents. At law, No.—.

RULE TO SHOW CAUSE.

Upon consideration of the petition of the Valley Paper Company filed herein this 2d day of February, 1910, it is by the court this 2d day of February, 1910, ordered that the respondents, the said Reed Smoot, Jonathan Bourne, jr., Duncan U. Fletcher, George C. Sturgiss, Allen F. Cooper, and David E. Finley, members of the Joint Committee on Printing of Congress, show cause, if any they may have, on or before the 11th day of February, 1910, at 10 o'clock a.m., why a writ of mandamus should not be issued, as prayed in said petition; provided a copy of said petition and this rule be served upon said respondents, members of the Joint Committee on Printing of Congress, on or before the 7th day of February, 1910.

WRIGHT, *Justice.*

A true copy:
Test:

J. R. YOUNG, *Clerk.*

By H. BINGHAM, *Assistant Clerk.*

against three members of this body named in said rule, to wit: Senators Reed Smoot, Jonathan Bourne, jr., and Duncan U. Fletcher, and in causing the said rule to be served upon them, in the opinion of the Senate, thereby unlawfully invaded the constitutional privileges and prerogatives of the Senate and of said Senators, and was without jurisdiction to grant said rule; and said Senators are directed to make no appearance in response thereto.

Mr. Knute Nelson, of Minnesota, offered the following amendment:

Strike out at the end of the resolution the words—

"And said Senators are directed to make no appearance in response thereto—"

And to insert in lieu thereof the words:

"That said Senators, without acknowledging the jurisdiction of said court, may, in their discretion, appear therein for the sole purpose of showing to the court that it is without jurisdiction in the premises and is unlawfully invading the constitutional privileges and prerogatives of the Senate and of said Senators."

Following extended debate the amendment was disagreed to, yeas 14, nays 45, and the resolution was passed in the form in which offered.

Whereupon, on motion of Mr. Clark, of Wyoming, the following was adopted:

Resolved, That the Secretary of the Senate respectfully communicate to Mr. Justice Wright, justice of the Supreme Court of the District of Columbia, the views of the Senate upon the question of the jurisdiction of said court in the case of The Valley Paper Company (Incorporated), plaintiff, . The Joint Committee on Printing of Congress, etc., in which a rule to show cause was made by said justice on the 2d day of February, A. D. 1910, as expressed in S. R. 173.

On March 21, 1910,[2] the Senate ordered to be printed as a Senate document the decision and opinion of Mr. Justice Wright, in the Supreme Court of the District of Columbia, including the following:

[1] Senate report No. 213.

[2] Senate Document No. 806.

THE VALLEY PAPER COMPANY
v.
SMOOT ET AL. } At Law, No. 53242.

The time for the return to the rule heretofore issued having arrived, appear Hons. Allen F. Cooper, George C. Sturgiss, and David E. Finley, who show the court that they are Members of the House of Representatives of the United States, and they invite the court to consider whether in the judgment of the court the law has imposed upon the court jurisdiction of the matter of the petition. The considerations which have been expressed and the conclusion to which the court's judgment has been led in the progress of an opinion just delivered require the court to answer that it is by law vested with jurisdiction to hear and determine the controversy; that it is obliged by the law of the land to entertain that jurisdiction and to proceed to that hearing and determination. During the progress of the exercise of that jurisdiction, should there transpire an undertaking to infringe the privileges and prerogatives of the Congress of the United States or of its Members, the court expects to be the foremost amongst those who uncover it and who attend to the preservation and the vindication of their inviolate and inviolable character.

2165. Functions delegated to a joint committee by statute may not be usurped by the House.

Regulations established by a joint committee under prerogatives conferred by law are not subject to modification by either House.

On February 21, 1912,[1] Mr. Theron Akin, of New York, asked unanimous consent to have printed in the Record a speech by himself, and with it certain illustrations and diagrams.

Mr. James R. Mann, of Illinois, made the point of order that control of the arrangement and style of the Congressional Record was by law[2] vested in the Joint Committee on Printing which had promulgated certain regulations governing the pointing of illustrations and diagrams in the Congressional Record, and the House having no jurisdiction could not modify such regulations.

The Speaker[3] sustained the point of order.

2166. The statutes provide for the appointment of a joint committee of the two Houses to consider reports as to destruction of useless papers in the executive departments.

The statutes[4] prescribe this method of disposing of useless papers in the departments:

Except as otherwise provided by law, whenever there shall be in any one of the executive departments of the Government, or in the various public buildings under the control of such departments, an accumulation of files of papers, which are not needed or useful in the transaction of the current business of such department and have no permanent value or historical interest, it shall be the duty of the head of such department to submit to Congress a report of that fact, accompanied by a concise statement of the condition and character of such papers.

Upon the submission of such report, it shall be the duty of the presiding officer of the Senate to appoint two Senators, and of the Speaker of the House of Representatives to appoint two Representatives,[5] and the senators and Representatives so appointed shall constitute a joint

[1] Second session Sixty-second Congress, Record, p. 2293.

[2] Revised Statutes, p. 1426, sec. 181.

[3] Champ Clark, of Missouri, Speaker.

[4] Revised Statutes, p. 36, sec. 112.

[5] In the House, the Committee of Disposition of Useless Executive Papers is now a standing committee and its members are elected by the House. In the Senate, the committee is appointed as occasion requires.

committee, to which shall be referred such report, with the accompanying statement and the papers therein described, and submit to the Senate and House, respectively, a report of such examination and their recommendation.

If such joint committee report that such files of papers, or any part thereof, are not needed or useful in the transaction of the current business of such department, and have no permanent value or historical interest, then it shall be the duty of such head of the department to sell as waste paper or otherwise dispose of such files of papers upon the best obtainable terms after due publication of notice inviting proposals therefor, and receive and pay the proceeds thereof into the Treasury of the United States and make report thereof to Congress.

This statute [1] was enacted in 1889, in practically its present form and reenacted with slight changes in phraseology in the general revision of the statutes in 1926.

2167. A joint committee may report in either House.

A bill introduced by a member of the joint committee, on the subject for consideration of which the committee had been created, properly would be referred to such joint committee and when reported would be referred to its appropriate calendar.

A joint select committee expires on submitting its final report.

On January 21, 1930,[2] Mr. Earl C. Michener, of Michigan, by direction of the Committee on Rules, called up the joint resolution (S. J. Res. 7) reading as follows:

Resolved, etc., That a joint committee to be composed of five Members of the Senate, to be appointed by the Vice President, and five Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives, shall make an investigation and report recommendations by bill or otherwise to their respective Houses relative to the readjustment of the pay and allowances of the commissioned and enlisted personnel of the several services mentioned in the title of this joint resolution.

Mr. William B. Bankhead, of Alabama, submitted parliamentary inquiries as to whether the proposed joint committee would report to the House or to the Senate; whether a bill could be referred to it: and whether it would be authorized to report directly to the House or through a standing committee.

After debate the Speaker [3] ruled:

The Chair thinks the first question to be determined is whether in cases of joint committees a part of such joint committee may report to one House and a part to the other.

The Chair recalls some years ago this matter was under debate, and the general practice was that a joint committee could not divide into sections and report to its respective Houses, and that side of the question was forcefully argued by the gentleman from Illinois, the late Mr. James R. Mann. However, the question was directly decided by Mr. Speaker Cannon on January 7, 1907.[4] The question was raised as to the right of the Members on the House side of a joint committee to report directly to the House itself, and the Speaker held:

"A joint committee, as the Chair understands it, can report to either House; that is the section of the committee composed of Members of the House may report to this House and the section of the committee on the part of the Senate may report to the Senate"—

Which disposes of that question.

There are only two precedents of which the Chair is aware which cover this question on which the Speaker is asked to give his opinion to-day.

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[1] 25 Stat. L., p. 672.

[2] Second session, Seventy-first Congress, Record, p. 2087.

[3] Nicholas Longworth, of Ohio, Speaker.

[4] Sec. 4432, Hinds' Precedents.

In 1920 a joint committee to examine into the precise question was created. It was an act to increase the efficiency of the commissioned and enlisted personnel of the Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and a Public Health Service, and provided for a special joint committee to be composed of five Members of the Senate, to be appointed by the Vice President, and five Members of the House of Representatives, to be appointed by the Speaker of the House, and further provided:

"It shall make an investigation and report recommendations to their respective Houses not later than the first Monday in January, 1922, relative to a readjustment of the pay and allowances of the commissioned and enlisted personnel of the several services herein mentioned."

This is precisely the language of the present resolution which we are considering, except it provides not only that the joint committee may report recommendations but adds "shall make investigation and report recommendations by bill or otherwise." In other words, in so far as the right to report a bill is concerned, the language of this resolution confers even greater jurisdiction than the resolution of 1920.

Now, what happened in the case of the resolution of 1920? That committee sat and had hearings and a bill was introduced by Mr. McKenzie, a member of that committee. The bill was referred by the Speaker back to the committee set up under that act, and that committee reported a bill and it was referred to the calendar and a special rule was had for its consideration and it was agreed to and the bill was passed.

In that case, whether the committee properly had jurisdiction to report the bill or not, that jurisdiction was actually conferred upon it by the reference of the bill by the Speaker. That of itself conferred jurisdiction on the committee to report a bill.

In this case, while the Chair is expressing no opinion as to the merits of the question as to whether this committee should go further than merely to report recommendations which might be referred to the various committees having charge of the subject matter, the Chair is of the opinion that if some member of this committee, under the wording of this resolution, should see fit to introduce a bill, it would be the duty of the Chair, acting under the precedent just quoted, to refer that bill back to this special committee, and then such disposition could be made of it thereafter as they deemed proper.

The Chair wants to add that if, on the contrary, instead of some Member introducing a bill and then having that bill referred by the Speaker back to the committee, the committee saw fit to report a bill as a committee, that bill would have the right to go on the calendar and would be referred to the calendar.

Subsequently, Mr. Finis J. Garrett, of Tennessee, inquired how long the proposed joint select committee would continue to function and when it would expire.

The Speaker held that the joint committee would cease to exist when it filed its final report.

2168. A member of a joint commission created by law may resign without leave of the House; but announcement of such resignation is properly transmitted to the Speaker.

On February 15, 1908,[1] the Speaker[2] laid before the House the following communication:

To the SPEAKER:

It has just come to my knowledge that I am still a member of the Joint Printing Commission.

It has been and still is my opinion that membership of the Joint Committee on Printing is intended to carry with it ex officio membership on the Joint Committee on Printing. I therefore tender herewith my resignation as a member of said Joint Committee on Printing in order that

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[1] First session Sixtieth Congress, Record, p. 2073.

[2] Joseph C. Cannon, of Illinois, Speaker.

the gentleman from South Carolina, the Democratic member of the Joint Printing Committee may be appointed in my stead on the Joint Commission on Printing.

Respectfully,

JAMES M. GRIGGS.

Mr. James R. Mann, of Illinois, as a parliamentary inquiry, raised a question of order as to the acceptance of the resignation.

The Speaker said:

The Chair is of the opinion that the joint commission referred to is a statutory office, created by law. The gentleman may resign from it without leave from the House.

2169. The House does not act upon resignations from statutory offices even when power to fill vacancies in such offices rests with the House or the Speaker.

On March 3, 1909,[1] The Speaker[2] directed the Clerk to read the following communication:

HOUSE OF REPRESENTATIVES, UNITED STATES,
Washington, D. C., March 3, 1909.

Hon. JOSEPH G. CANNON,

Speaker House of Representatives, Washington, D. C.

Sir: I hereby tender my resignation as a member of the commission created for the purpose of superintending the construction of the House of Representatives Office building and a lighting and heating plant.

Your obedient servant,

W. P. HEPBURN.

Immediately upon the conclusion of the reading the Speaker announced the appointment of Mr. Walter I. Smith, of Iowa, to fill the vacancy occasioned by the resignation.

2170. While the House is without power to remove members of joint committees created by law, or to accept or reject resignations from such offices, such resignations are properly addressed to the joint committee or to the House having authority to fill these vacancies.

Resignations addressed to the Speaker or the House may be withdrawn at any time before action is taken thereon.

The resignation of a Member may be addressed either to the House or to the Governor of the State from which returned. In which latter event the House is advised by the Member or the Governor.

Forms of resignations and of resolutions providing for election of Members to fill vacancies on joint committees.

On January 20, 1910,[3] Mr. James T. Lloyd, of Missouri, submitted the following resignation as a member of a joint committee of investigation.

Hon. JOSEPH G. CANNON,

Speaker of the House of Representatives.

DEAR SIR: I hereby request to be excused from service on the joint committee to investigate the Interior Department and the Bureau of Forestry in the Department of Agriculture.

JAMES T. LLOYD.

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[1] Second session Sixtieth Congress, Record, p. 3802.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Second session Sixty-first Congress, Record, p. 856.

Mr. Lloyd then asked unanimous consent to address the House in explanation of the reasons prompting his resignation from the committee.

Whereupon the House adjourned.

On January 21,[1] Mr. Lloyd asked unanimous consent to withdraw his resignation.

The Speaker held that unanimous consent was not necessary and said:

The Chair thinks the gentleman has the right to withdraw the paper, as the House has taken no action on it.

Mr. Lloyd thereupon submitted his resignation in this form:

HOUSE OF REPRESENTATIVES,
Washington, January 21, 1910.

Hon. JOSEPH G. CANNON,
Speaker of the House of Representatives.

SIR: I hereby resign as a member, selected on the part of the House of Representatives, of the joint select committee authorized by the joint resolution approved January 19, 1910, providing for the investigation of the interior Department, etc.

JAMES T. LLOYD.

Mr. Elmer A. Moore, of Wisconsin, made the point of order that the tender of a resignation from a joint committee could not be made to the House as the House had no jurisdiction over joint committees.

The Speaker[2] ruled:

As to the right of the gentleman to resign, this is the situation: The gentleman was appointed under the joint resolution, which is a law, which provided that the House should select six members and the Senate six members of the joint committee or commission of investigation, the Vice President appointing the Senate members and the House electing the members on the part of the House. The commission exists under law. The House of Representatives, in the opinion of the Chair, has no power in this instance to make a removal or refuse a resignation. In many respects a resignation from this joint committee is like unto the resignation by a Member of Congress. Ordinarily the resignation by a Member of Congress is to the House. It may be to the governor of the state. The governor of the State in such case notifies the House, or the Member notifies the House that he has sent his resignation to the governor.

Now, the House, under the law, has the power which it has exercised in appointing the members of the commission in question. In the event of a vacancy among the House members upon the commission the House, as the law provides, has the power to fill that vacancy.

A somewhat similar question has arisen before. In February, 1908, the Speaker laid the following communication before the House:

"To the SPEAKER:

"It has just come to my knowledge that I am still a member of the Joint Printing Commission.

"It has been and still is my opinion that membership of the Joint Committee on Printing is intended to carry with it ex officio membership of the Joint Commission on printing. I therefore tender herewith my resignation as a member of said Joint Commission on Printing, in order that the gentleman from South Carolina, the Democratic member of the Joint Printing Committee, may be appointed in my stead on the joint Commission on Printing.

"Respectfully,

JAMES M. GRIGGS."

A question rising as to the acceptance of the resignation, the Speaker said:

"The chair is of the opinion that the joint commission referred to is a statutory office created by law. The gentleman may resign from it without leave from the House."

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[1] Record, p. 893.

[2] Joseph G. Cannon, of Illinois, Speaker.

On March 3, 1909, the Speaker laid before the House the following letter, which the Clerk read, as follows:

UNITED STATES HOUSE OF REPRESENTATIVES,
Washington, D. C., March 3, 1909.

Hon. JOSEPH G. CANNON,
Speaker House of Representatives, Washington, D. C.

SIR: I hereby tender my resignation as a member of the commission created for the purpose of superintending the construction of the House of Representatives Office Building and a lighting and heating plant.

Your obedient servant,

W.P. HEPBURN.

This was a commission created by law. Mr. Hepburn's term as a Member of the House expired with that legislative day. The Speaker designated a Member as his successor on the commission, having the power to do so under the law.

Senator Cockrell also resigned from the Senate building commission in 1905 by a communication to the Senate.

The Regents of the Smithsonian Institution are chosen under a law similar to the law authorizing the joint commission. In 1855 Mr. Rufus Choate resigned his position as one of the Regents.

That is sufficient to show what the practice has been; but if it were an open question, the House having the power under the law to appoint this commission, while it has no power to accept a resignation and no power to refuse to accept such a resignation, in the opinion of the Chair the resignation may be to the House, which has the power to select a successor, or it may be to the commission.

On January 24,[1] Mr. John Dalzell, of Pennsylvania, from the Committee on Rules, submitted this privileged resolution:

Resolved, That immediately upon the adoption of this resolution the House shall proceed by resolution to elect a member of the joint committee for the investigation of the Department of the Interior and the Bureau of Forestry in the Agricultural Department, to fill a vacancy created by the resignation of Mr. Lloyd of Missouri.

The resolution having been agreed to without debate, a resolution offered by Mr. Henry D. Clayton, of Alabama, was then agreed to by the House as follows:

Resolved, That James M. Graham, a Representative from the State of Illinois, be, and he is hereby, elected a member of the joint committee provided for by House joint resolution 103, approved January 19, 1910, in the place of T. Lloyd, a Representative from the State of Missouri, resigned.

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[1] Record, p. 921.