On Apr. 21, 1942,[9] Speaker Sam Rayburn, of Texas, recognized Samuel Dickstein, of New York, Chairman of the Committee on Immigration and Naturalization (since incorporated into the Committee on the Judiciary), who, by direction of that committee, moved that a bill (H.R. 6915), pertaining to the detention of certain aliens be rereferred from the Committee on the Judiciary to the Committee on Immigration and Naturalization.

The Chair then dealt with several points of order[10] after which the following exchange took place:

> MR. [JOHN E.] RANKIN of Mississippi: Then, Mr. Speaker, I move to lay on the table the motion of the gentleman from New York.
>
> THE SPEAKER: The question is on the motion offered by the gentleman from Mississippi.
>
> The question was taken; and on a division (demanded by Mr. Dickstein) there were—ayes 79, noes 25.
>
> MR. DICKSTEIN: Mr. Speaker, I object to the vote on the ground that a quorum is not present.
>
> THE SPEAKER: Evidently a quorum is not present.
>
> The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.
>
> The question was taken; and there were—yeas 238, nays 83, answered "present" 2, not voting 108. . . .

So the motion to table the motion to rerefer was agreed to.[11]

§ 29. Overlapping Jurisdiction; Proposals Involving More Than One Subject

Note: This section pertains to some of the general methods by which problems of overlapping jurisdiction were dealt with prior to the 94th Congress when the Committee Reform Amendments permitting joint, split, and sequential referral became effective.

Informal Committee Agreements

§ 29.1 Where a legislative proposal contains two subjects which are intricately related but which fall within the jurisdiction of different committees, the legislative initiative is sometimes assumed by

9. 88 CONG. REC. 3571, 3572, 77th Cong. 2d Sess.

10. See § 28.2, supra

11. For a comparable instance, see 84 CONG. REC. 5120, 76th Cong. 1st Sess., May 4, 1939, where the House, by division vote, rejected a motion to rerefer a bill (H.R. 5138), from the Committee on the Judiciary to the Committee on Immigration and Naturalization. As in the instant case, the Committee on Immigration and Naturalization sought the rereference.

the committee having the primary concern for the subject matter with the understanding that the other committee involved will have an opportunity to consider that portion of the legislation within its cognizance and handle the relevant portions of the measure if and when it is brought to the floor of the House.

On June 17, 1969,[12] a letter from the Secretary of Transportation [Exec. Comm. No. 863], transmitting a draft of proposed legislation to provide for the expansion and improvement of the Nation's airport and airway system, for the imposition of airport and airway user charges, and for other purposes was taken from the Speaker's table and referred to the Committee on Ways and Means.

The next day, June 18, 1969,[13] Speaker John W. McCormack, of Massachusetts, recognized Wilbur D. Mills, of Arkansas, Chairman of the Committee on Ways and Means, who made the following request:

> Mr. Speaker, I ask unanimous consent that Executive Communication No. 863, received from the Secretary of Transportation on June 17, relating to the future of air transportation, and referred to the Committee on Ways and Means, be referred to the Committee on Interstate and Foreign Commerce because the chairman of the Committee on Interstate and Foreign Commerce [Harley 0. Staggers, of West Virginia] and the chairman of the Committee on Ways and Means understand that the tax provisions contained in that message will be handled by the Committee on Ways and Means.

There was no objection to the request.

Parliamentarian's Note: Following the rereference of Executive Communication No. 863, Mr. Staggers introduced H.R. 12374, embodying the proposals contained in the draft bill submitted with that communication; and the bill was immediately referred[14] to the Committee on Interstate and Foreign Commerce. The precedent for the agreement between the two committees had been established earlier over the Federal Aid Highway Act of 1956, where Title II (the Highway Revenue Act of 1956) was considered by the Committee on Ways and Means although the overall jurisdiction of the program lay within the Committee on Public Works.[15]

---

12. 115 CONG. REC. 16211, 91st Cong. 1st Sess.

13. 115 CONG. REC. 16301, 91st Cong. 1st Sess.

14. 115 CONG. REC. 17138, 91st Cong. 1st Sess., June 24, 1969.

15. See § 29.4, infra.

Presidential Messages

§ 29.2 A message from the President relating to subject matters within the jurisdiction of several committees may be referred to the Committee of the Whole House on the state of the Union.

On Jan. 31, 1935,[16] Speaker Joseph W. Byrns, of Tennessee, laid before the House a message from President Franklin D. Roosevelt, which was read and referred to the Committee of the Whole House on the state of the Union.[17] The Record discloses that prior to the reference, the following exchange took place:

> MR. [SCHUYLER OTIS] BLAND [of Virginia]: Mr. Speaker, before the message is referred, I wish to make a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. BLAND: The message relates to aviation matters that come within the jurisdiction of the Committee on Merchant Marine, Radio, and Fisheries [now the Committee on Merchant Marine and Fisheries]. It also relates to matters that come before the Interstate Commerce Commission. It seems to me that it is highly objectionable that a message of this kind should be referred to one committee.
>
> THE SPEAKER: The Chair has the idea of referring the message to the Committee of the Whole House on the state of the Union, and later when the bills are introduced they will be referred to the proper committees. The message, with the accompanying papers, will be referred to the Committee of the Whole House on the state of the Union and ordered to be printed.

Executive Communications; Statutory Requirements

§ 29.3 Pursuant to statutory obligation, the Speaker has referred an executive communication to three committees of the House, simultaneously.

On May 18, 1960,[18] Executive Communication No. 2166, a letter from the Acting Secretary of State, transmitting the report of the President on determinations under the Mutual Defense Assistance Control Act of 1951 for the quarter ending Mar. 31, 1960, was taken from the Speaker's table and referred to the Committees on Foreign Affairs, Armed Services, and Appropriations pursuant to section 103(b) of the act providing for transmittal of such information to the chairmen of the aforementioned committees.

Parliamentarian's Note: Classified reports submitted to the Con-

16. 79 CONG. REC. 1327, 1328, 74th Cong. 1st Sess.

17. The Committee of the Whole House on the state of the Union is treated in Ch. 19, infra.

18. 106 CONG. REC. 10625, 86th Cong. 2d Sess.

gress under section 103(b) of the Mutual Defense Assistance Control Act of 1951 are normally transmitted directly from the Speaker's office to the appropriate committees of the House. This particular report was referred by the Speaker because it was submitted in a form which indicated a departure from the normal practice, i.e., the letter addressed to the Speaker had attached thereto one copy of the classified enclosure in addition to the three copies normally furnished for the use of the respective committees.

Proposals Relating to Internal Revenue Code and the Highway Trust Fund

§ 29.4 A bill relating to the interstate highway program and containing a title amending the Internal Revenue Code to provide for a temporary increase in the gas tax and a transfer of certain tax receipts to the Highway Trust Fund was referred to the Committee on Public Works with the understanding that it was not to constitute a precedent with respect to surrender of jurisdiction over the fund by the Committee on Ways and Means.

On Aug. 14, 1959,[19] Speaker Sam Rayburn, of Texas, recognized Mr. George H. Fallon, of Maryland, of the Committee on Public Works, who announced his introduction, that day, of certain emergency legislation (H.R. 8678), "to keep the interstate and defense highway program on schedule." As Mr. Fallon elaborated, H.R. 8678 was a bill in the nature of a substitute to H.R. 5950, a measure introduced earlier[1] in the session which the Committee on Public Works had agreed to report to the House, "contingent on favorable action by the Committee on Ways and Means in providing the necessary financing provisions." He then noted that that committee had completed such action, and its work product was incorporated in title II of the bill [i.e., of H.R. 8678]. That title, he stated,

> . . . [P]rovides a temporary increase in the Federal tax on motor fuels of 1 cent per gallon—from 3 to 4 cents—effective September 1, 1959 through June 30, 1961; a transfer to the Highway Trust Fund of the receipts from 5 percentage points of the excise tax on passenger cars and the receipts from 5 percentage points of the excise tax on parts and accessories, effective July 1, 1961, until June 30, 1964.

---

19. 105 CONG. REC. 15895, 86th Cong. 1st Sess.

1. 105 CONG. REC. 4999, 86th Cong. 1st Sess., Mar. 23, 1959.

Shortly thereafter, Mr. Fallon yielded to Wilbur D. Mills, of Arkansas, Chairman of the Committee on Ways and Means, who initiated the following exchange:[2]

> Will my friend, the gentleman from Maryland, advise us whether or not the bill he has introduced today contains a title II dealing with the financing of the road program for the 2-year period involved?
>
> MR. FALLON: Yes; it does.
>
> MR. MILLS: The language of title II in your bill is the language which was prepared by the Committee on Ways and Means with regard to the financing?
>
> MR. FALLON: It is the exact language.
>
> MR. MILLS: Mr. Speaker, this is a matter which should, in my opinion, be handled in one bill. However, it should be understood that this is not in any way to indicate the establishment so far as our committee is concerned of a precedent with respect to jurisdiction of the Highway Trust Fund.

As the Record discloses, H.R. 8678 was referred to the Committee on Public Works.[3]

Differing Jurisdiction Over Senate Bill and House Substitute

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

On Sept. 23, 1969,[4] by direction of the Committee on Rules, Mr. Spark M. Matsunaga, of Hawaii, called up House Resolution 544 and asked for its immediate consideration. House Resolution 544 provided that upon its adoption, it would be in order to move that the House resolve itself into the Committee of the Whole for the consideration of a bill (H.R. 12549), to amend the Fish and Wildlife Coordination Act to provide for the establishment of a Council on Environmental Quality, and for other purposes. The resolution additionally provided that debate on the bill would be controlled by the chairman and the ranking minority member of the Committee on Merchant Marine and Fisheries.

The final provision of House Resolution 544 was devised to pre-

2. 105 CONG. REC. 15896, 86th Cong. 1st Sess., Aug. 14, 1959.
3. *Id.* at P. 15916.
4. 115 CONG. REC. 26569, 91st Cong. 1st Sess.

vent a jurisdictional problem and read, as follows:

> . . . After the passage of H.R. 12549, it shall be in order in the House to take from the Speaker's table the bill S. 1075 and to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof of provisions contained in H.R. 12549 as passed by the House.

The Senate bill referred to, S. 1075, was generally similar to the House bill (H.R. 12549), but did not amend the Fish and Wildlife Coordination Act. This feature was critical[5] to the determination that H.R. 12549 lay within the jurisdiction of the Committee on Merchant Marine and Fisheries. The Senate bill had been passed[6] after being considered and reported out by that body's Committee on Interior and Insular Affairs.

The matter of jurisdictional overlap was briefly discussed in the ensuing debate by Mr. Delbert L. Latta, of Ohio, who made the following observation:[7]

> I want to point out that the Rules Committee has had this resolution under consideration since July for the reason that there was a jurisdictional question which arose concerning a matter between the Committee on Merchant Marine and Fisheries and the Committee on Interior and Insular Affairs. It is our understanding now that the difficulties have been resolved and that, by an agreement between the two committees, when this matter goes to conference two members of the Committee on Interior and Insular Affairs will be on the conference committee.

House Resolution 544 was agreed to shortly thereafter.[8]

Parliamentarian's Note: In light of its environmental subject matter and in the absence of any provision affecting the Fish and Wildlife Coordination Act, S. 1075 would have been referred to the House's Committee on Interior and Insular Affairs.[9] However, Wayne N. Aspinall, of Colorado, Chairman of the Committee on Interior and Insular Affairs, agreed that he would not oppose the rule embodied by House Resolution 544 provided that certain amendments which he proposed to offer on the floor, would be accepted by the Committee on Merchant Marine and Fisheries,[10] and if,

---

5. The rules [see Rule X clause 1(n)(4), *House Rules and Manual* § 683, (1979)] provide that the jurisdiction of the Committee on Merchant Marine and Fisheries includes: "fisheries and wildlife, including research, restoration, refuges, and conservation."

6. 115 CONG. REC. 19013, 91st Cong. 1st Sess., July 10, 1969.

7. 115 CONG. REC. 26569, 91st Cong. 1st Sess., Sept. 23, 1969.

8. *Id.* at p. 26571.

9. See Rule X clause 1(k), *House Rules and Manual* § 608 (1979).

10. Mr. Aspinall's amendments were readily accepted by that committee.

when conferees were named on the bill, members of his committee would be included.[11]

Measures Relating to National Forests

§ 29.6 A Senate bill extending the boundaries of a national forest, created from public domain and thus within jurisdiction of the House Committee on Interior and Insular Affairs, was referred to the Committee on Agriculture, with the consent of the Chairman, Committee on Interior and Insular Affairs, and with the understanding that the reference would not effect a change of jurisdiction.

On Apr. 22, 1963,[12] Executive Communication No. 709, a letter from the Secretary of Agriculture, transmitting a draft of a proposed bill to add certain lands to the Cache National Forest, Utah, was taken from the Speaker's table and referred to the Committee on Interior and Insular Affairs. This communication explained that the Cache National Forest had been carved from the public domain and that the proposed additions were lands within reclamation projects.[13]

On June 24, 1963,[14] a bill (H.R. 7218), to accomplish the same end was introduced by Mr. Laurence J. Burton, of Utah. That bill, however, did not indicate that the forest had been "public domain," and accordingly[15] was referred to the Committee on Agriculture.

When the Senate passed a similar bill (S. 1388),[16] the measure was held at the desk until the Chairman of the Committee on Interior and Insular Affairs, Wayne

See 115 CONG. REC. 26587, 91st Cong. 1st Sess.

11. Conferees, when appointed, represented both committees. *Id.* at p. 26591.

12. 109 CONG. REC. 6655, 88th Cong. 1st Sess.

13. The rules provide [see Rule X clause 1(k), *House Rules and Manual* § 680 (1979)] that the Committee on Interior and Insular Affairs has jurisdiction over "forest reserves and national parks created from the public domain [clause 1(k)(1)]," "reclamation [clause 1(k)(5)]," and "public lands generally [clause 1(k)(15)]."

14. 109 CONG. REC. 11443, 88th Cong. 1st Sess.

15. The rules provide [see Rule X clause 1(a), *House Rules and Manual* § 670 (1979)] that the Committee on Agriculture has subject matter jurisdiction over "forestry in general, and forest reserves other than those created from the public domain [clause 1(a)(13)]."

16. 109 CONG. REC. 11552, 11553, 88th Cong. 1st Sess., June 25, 1963.

N. Aspinall, of Colorado, disclosed that he had no objection to the reference of the Senate bill to the Committee on Agriculture in light of the circumstances, and with the understanding that such approval did not constitute a precedent with respect to the jurisdiction of the Committee on Interior and Insular Affairs.

Several days later, on July 15, 1963,[17] the Record indicates that S. 1388, an "act to add certain lands to the Cache National Forest, Utah," was referred to the Committee on Agriculture.[18]

Select Committee to Investigate Domestic Energy Resources

§ 29.7 The House rejected a resolution, reported from the Committee on Rules, establishing a select committee to investigate all aspects of energy resources in in the United States.

On May 26, 1971,[19] by direction of the Committee on Rules, Mr. William R. Anderson, of Tennessee, called up House Resolution 155 and asked for its immediate consideration. The resolution read as follows:

> *Resolved*, That there is hereby created a select committee to be composed of seven Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.
>
> The committee is authorized and directed to conduct a full and complete investigation of all aspects of the energy resources in the United States, including (1) the availability of oil, gas, coal, and nuclear energy reserves; (2) the identification of the ownership of such reserves; (3) the reasons and possible solutions for the delay in new starts of fossil fueled powerplants; (4) the effect of pricing practices by the owners of energy reserves; (5) the effect of the import of low sulfur fuels; (6) measures to increase the availability of pipelines, railways, barges, and ships needed to transport fuel materials; (7) measures to close the gap between the supply and demand for electric energy; and (8) the identification of the environmental effects of the electricity industry. . . .
>
> The committee shall report to the House as soon as practicable during the present Congress the results of its investigation and study, together with such recommendations as it deems advisable. Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

Shortly thereafter, Mr. Anderson summarized the nature of the resolution:[20]

17. 109 CONG. REC. 12525, 88th Cong. 1st Sess.

18. S. 1388 was reported by the Committee on Agriculture on July 29, 1963 (H. Rept. No. 597).

19. 117 CONG. REC. 16984, 92d Cong. 1st Sess.

20. *Id.* at p. 16985.

> . . . [T]he resolution before us, House Resolution 155, is to create a select committee to be composed of seven Members to be appointed by the Speaker.
>
> The responsibility of the committee shall be to investigate all aspects of the energy resources in the United States, including the availability of oil, gas, coal, and nuclear energy reserves; the identification of the ownership of such reserves; the reasons and possible solutions for the delay in new starts of fossilfueled powerplants; the effect of pricing practices by the owners of energy reserves; the effect of the import of low sulfur fuels; measures to increase the availability of pipelines, railways, barges, and ships needed to transport fuel materials; measures to close the gap between the supply and demand for electric energy; and the identification of the environmental effects of the electricity industry.

Mr. H. R. Gross, of Iowa, raised the following issues with respect to the resolution:

> What about the invasion of the jurisdiction of the standing committees that are already in existence with staffs sufficient to go into the matters included in the resolution? It seems to me in reading this list that the proposed new commission would be invading the jurisdiction of a half dozen regularly established committees in the House of Representatives.

Mr. Anderson responded by stating that fragmentation in the regular committee structure with respect to energy matters was a problem in itself. He noted, however, that he visualized the proposed committee "as being an aid to the other House committees in terms of a full-time study of a very, very vital national problem and being of assistance to the other committees rather than an infringement on their character and the rules that they operate under."

Other Members voiced concern about the proposed jurisdiction of the select committee. Emanuel Celler, of New York, Chairman of the Committee on the Judiciary, observed that: (1)

> . . . [U]nder the language of the bill for the establishment of this special group there is listed "the effect of pricing practices by the owners of energy reserves." We have now pending in the Judiciary Committee a number of bills with reference to pricing practices concerning those who manufacture energy. Am I going to run a race with you to conduct the hearings in my committee while you conduct hearings in your committee on pricing practices, predatory practices, reciprocal relations between various companies, all of which are embodied in the provisions in the pending resolution?

Wayne N. Aspinall, of Colorado, Chairman of the Committee on Interior and Insular Affairs, stated: (2)

> In my opinion House Resolution 155 will raise serious jurisdictional ques-

1. *Id.* at p. 16986.

2. *Id.* at pp. 16997, 16998.

tions with existing House committees. For example, item (1) of House Resolution 155, the availability of oil, gas, coal, and nuclear energy reserves, is clearly within the jurisdiction of the Interior and Insular Affairs Committee. The House rules assign to the Committee on Interior and Insular Affairs of the House—and I cite only pertinent sections of those rules[3]—responsibility for mineral reserves on the public lands; mining interest generally; and petroleum conservation on the public lands and conservation of the radium supply in the United States.

The conflicts with item (2), the identification of the ownership of reserves, is less clear but where those minerals occur on the public lands of this Nation which incidentally make up about one-third of our total land area, I am convinced that again the responsibility lies with the House Committee on Interior and Insular Affairs.

I will not make a detailed comparison of the remaining five items in House Resolution 155 with the present jurisdictional responsibility of the Committee on Interior and Insular Affairs. I am convinced, however, that there are substantial areas of conflict or duplication that would raise serious jurisdictional questions.

For these reasons I must oppose House Resolution 155.

Mr. John E. Moss, of California, a member of the Committee on Interstate and Foreign Commerce, contended that:

. . . [I]t is not only the jurisdiction of the Interstate and Foreign Commerce Committee which the proposed select committee would infringe upon.[4] The same is true of the jurisdiction of the Public Works Committee,[5] the Ways and Means Committee,[6] the Merchant Marine and Fisheries Committee,[7] and the Joint

3. See Rule XI clause 10, *House Rules and Manual* § 702 (1973).

4. The rules [see Rule XI clause 12, *House Rules and Manual* § 704 (1973)] provide that the Committee on Interstate and Foreign Commerce possesses jurisdiction over interstate and foreign commerce generally [clause 12(a)], interstate oil compacts and petroleum and natural gas, except on the public lands [clause 12(d)], regulation of interstate and foreign transportation, except transportation by water not subject to the jurisdiction of the Interstate Commerce Commission [clause 12(h)], and regulation of interstate transmission of power, except the installation of connections between government water-power projects [clause 12(i)], among other subjects.

5. The jurisdiction of the Committee on Public Works [see Rule XI clause 16, *House Rules and Manual* § 714 (1973)] includes oil and other pollution of navigable waters [clause 16(f)], and water power [clause 16(j)], among other subjects.

6. The jurisdiction of the Committee on Ways and Means [see Rule XI clause 21, *House Rules and Manual* § 724 (1973)] extends to such subjects as ports of entry and delivery [clause 21(a)], reciprocal trade agreements [clause 21(c)], revenue measures generally [clause 21(d)], and transportation of dutiable goods [clause 21(h)], among others.

7. The jurisdiction of the Committee on Merchant Marine and Fisheries in-

Committee on Atomic Energy.[8] All of these committees have legislative jurisdiction with regard to particular aspects of energy resources and environmental protection, and the establishment of a new select committee would tend to hinder rather than further the legislative output of these committees.

The proponents of House Resolution 155 did not choose to deny the existence of jurisdictional changes but responded, instead, by arguing that a comprehensive analysis by the select committee would be preferable to the present approach. Mr. Dante B. Fascell, of Florida, a cosponsor of the resolution, argued that the Nation's energy problems could not be addressed on an "ad hoc basis."[9] Mr. Thaddeus J. Dulski, of New York, asserted that "overlapping responsibilities"[10] were partly to blame for "what amounts to a desperate national energy crisis." Contending that there was a "definite interrelationship between fuels"[11] the understanding of which was essential to formulation of policy, Mr. Don Fuqua, of Florida, stated that "this resolution (H. Res. 155) will provide the most logical vehicle to define this interrelationship and provide us with a workable energy policy."

On a subsequent roll call vote, the resolution was rejected.[12]

§ 30. Committee on Agriculture

The Committee on Agriculture became a standing committee of the House on May 3, 1820,[13] with jurisdiction over "subjects relating to agriculture."[14] Under the rules revisions of 1880, this jurisdiction was extended to include forestry, and the committee was granted the authority to receive the estimates and report ap-

cludes [see Rule XI clause 14, *House Rules and Manual* § 709 (1973)] merchant marine generally [clause 14(a)], measures relating to the regulation of common carriers by water (except matters subject to the jurisdiction of the Interstate Commerce Commission) [clause 14(e)], navigation and the laws relating thereto, including pilotage [clause 14(g)], and the registering and licensing of vessels and small boats [clause 14(i)], among other subjects.

8. The jurisdiction of the Joint Committee on Atomic Energy extended to the making of continuing studies of problems relating to the development, use, and control of atomic energy. See § 7, supra.

9. 117 CONG. REC. 17000, 92d Cong. 1st Sess., May 26, 1971.

10. *Id.* at p. 17001.

11. *Id.* at p. 17002.

12. *Id.* at p. 17003.

13. 4 Hinds' Precedents § 4149.

14. Terrence T. Finn, "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974) committee print, p. 6.