a point of order would lie in most instances.

. . . So this is my notice that I intend to cite the paragraphs that are subject to points of order and ask for their deletion from this bill.

Although several Members took exception[1] to Mr. Rabaut's stated intention, as the Clerk read the bill for amendment[2] Mr. Rabaut proceeded to raise points of order against 31 paragraphs in the bill. Each point of order was based on the contention that the language in question constituted legislation in an appropriation bill.[3] In each instance the Chair sought comment from Mr. Cannon, who would concede the point of order—whereupon the Chair would sustain it. When this process concluded, the total amount of funds to be appropriated was trimmed by more than $1.4 billion,[4] a figure comprising 86 percent of the original total.[5]

1. See § 52.2, supra, for comments from the Chairman and the ranking majority member of the Committee on Rules. See also § 52.1, supra, in which Mr. Cannon discusses the historical role of the Committee on Rules.
2. 101 CONG. REC. 10604–25, 84th Cong. 1st Sess.
3. For information on legislation on appropriation bills generally, see Ch. 26, infra.
4. 101 CONG. REC. 10949, 84th Cong. 1st Sess., July 19, 1955.
5. For a comparable instance in an earlier Congress, see 94 CONG. REC. 7603, 80th Cong. 2d Sess., June 9, 1948, where the Committee on Rules reported out a rule [H. Res. 651], for the consideration of a supplemental appropriations bill (H.R. 6829), calling for the waiver of all points of order against "any provisions contained therein" as well as the waiver of all points of order against "any amendment offered by direction of the Committee on Appropriations."

§ 53. Jurisdiction and Scope of Authority

Under the 1973 rules[6] the jurisdiction of the Committee on Rules[7] extended to:

(a) The rules and joint rules (other than rules or joint rules relating to the Code of Official Conduct or relating to financial disclosure by a Member, officer, or employee of the House of Representatives), and order of business of the House.

(b) Recesses and final adjournments of Congress.

This jurisdiction was made effective Jan. 2, 1947, as a part of the Legislative Reorganization Act of 1946.[8] Effective July 12, 1974, the Committee on Rules was given specific authority under section 402(b) of the Congressional Budget Act of 1974 to report

6. Rule XI clauses 17(a), 17(b), *House Rules and Manual* § 715 (1973).
7. See § 52, supra, for a brief history of the Committee on Rules, touching upon the evolution of its powers.
8. 60 Stat. 812.

emergency waivers of the required date under that act for bills and resolutions authorizing new budget authority;[9] that jurisdiction was incorporated into the rules in the 93d Congress.[10] The subject of recesses and final adjournments was formerly under the jurisdiction of the Committee on Ways and Means. Jurisdiction over rules relating to official conduct and financial disclosure was transferred to the Committee on Standards of Official Conduct on Apr. 3, 1968,[11] but in the 95th Congress, jurisdiction over rules relating to financial disclosure by Members, officers, and employees of the House was returned to the Committee on Rules (H. Res. 5, 123 CONG. REC. 53–70, 96th Cong. 1st Sess., Jan. 4, 1977).

The principal jurisdiction of the committee is over propositions to make or change the rules,[12] for the creation of committees,[13] and directing them to make investigations.[14] It also reports resolutions relating to the hour of daily meeting and the days on which the House shall sit,[15] and orders relating to the use of the galleries during the electoral count.[16]

In addition, the committee reports special orders providing the times and methods for consideration of public bills or classes of bills, thereby enabling the House, by majority vote, to determine the order and manner of consideration of measures on the House or Union Calendars. This special order jurisdiction also entitles the committee to bring a measure, not reported by legislative committee, directly before the House for its consideration,[17] and to report other resolutions to facilitate the disposal of business on the Speaker's table.

Jurisdiction, Generally

§ 53.1 The Committee on Rules may consider any matter that is properly before them.

On July 30, 1959,[18] the Committee on Education and Labor

9. Pub. L. No. 93–344, § 402b.

10. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974, effective Jan. 3, 1975.

11. H. Res. 1099, 114 CONG. REC. 8811, 90th Cong. 2d Sess.

12. 5 Hinds' Precedents §§ 6770, 6776; 7 Cannon's Precedents § 2047.

13. 4 Hinds' Precedents § 4322; 7 Cannon's Precedents § 2048.

14. 4 Hinds' Precedents §§ 4322–4324; 7 Cannon's Precedents § 2048.

15. 4 Hinds' Precedents § 4325.

16. *Id.* at § 4327.

17. The role of the Committee on Rules with respect to special orders and order of business, generally, is treated in Ch. 21, infra.

18. 105 CONG. REC. 14742, 86th Cong. 1st Sess.

had received unanimous consent to have until midnight to file a report on a bill (H.R. 8342), pertaining to the prevention of abuses in labor organizations.

Shortly thereafter, as the program for the forthcoming week was being discussed, Mr. Clare E. Hoffman, of Michigan, initiated the following exchange with Speaker Sam Rayburn, of Texas:[19]

> Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. HOFFMAN of Michigan: I ask the question, under the rules of the House, can the Committee on Rules report out a bill before they get a majority report from the committee?
>
> THE SPEAKER: The gentleman from North Carolina [Mr. Barden] asked unanimous consent, which was obtained, to have until midnight tonight to file a report of the Committee on Education and Labor on the so-called labor bill.
>
> MR. HOFFMAN of Michigan: My question is, until a majority of the committee sign the report, can the Committee on Rules consider the bill?
>
> THE SPEAKER: The Committee on Rules has the authority to consider any matter which is properly before them. The Chair would certainly hold that this is properly before the Committee on Rules.

Amending the House Rules

§ 53.2 The Committee on Rules has jurisdiction of a resolution proposing amendments to the rules of the House, and the reporting of such a measure is privileged under the rules.

On Mar. 26, 1935,[20] John J. O'Connor, of New York, Chairman of the Committee on Rules, called up House Resolution 172, which was read by the Clerk as follows:

> *Resolved*, That rule XXIV of the House of Representatives be, and is hereby, amended by striking out paragraph 6 thereof and inserting in lieu thereof the following:
>
> "6. On the first Tuesday of each month after disposal of such business on the Speaker's table as requires reference only, the Speaker shall direct the Clerk to call the bills and resolutions on the Private Calendar. Should objection be made by two or more Members to the consideration of any bill or resolution so called, it shall be recommitted to the committee which reported the bill or resolution and no reservation of objection shall be entertained by the Speaker. Such bills and resolutions, if considered, shall be considered in the House as in the Committee of the Whole. No other business shall be in order on this day unless the House, by two-thirds vote on motion to dispense therewith, shall otherwise determine. On such motion debate shall be limited to 5 minutes for and 5 minutes against said motion.
>
> "On the third Tuesday of each month after the disposal of such business on

19. *Id.* at p. 14743.

20. 79 CONG. REC. 4480, 4481, 74th Cong. 1st Sess.

the Speaker's table as requires reference only, the Speaker may direct the Clerk to call the bills and resolutions on the Private Calendar, preference to be given to omnibus bills containing bills or resolutions which have previously been objected to on a call of the Private Calendar. All bills and resolutions on the Private Calendar so called, if considered, shall be considered in the House as in the Committee of the Whole. Should objection be made by two or more members to the consideration of any bill or resolution other than an omnibus bill, it shall be recommitted to the committee which reported the bill or resolution and no reservation of objection shall be entertained by the Speaker.

"Omnibus bills shall be read for amendment by paragraph, and no amendment shall be in order except to strike out or to reduce amounts of money stated or to provide limitations. Any item or matter stricken from an omnibus bill shall not thereafter during the same session of Congress be included in any omnibus bill.

"Upon passage of any such omnibus bill, said bill shall be resolved into the several bills and resolutions of which it is composed, and such original bills and resolutions, with any amendments adopted by the House, shall be engrossed, where necessary, and proceedings thereon had as if said bills and resolutions had been passed in the House severally.

"In the consideration of any omnibus bill the proceedings as set forth above shall have the same force and effect as if each Senate and House bill or resolution therein contained or referred to were considered by the House as a separate and distinct bill or resolution."

Speaker Joseph W. Byrns, of Tennessee, then recognized Mr. Thomas L. Blanton, of Texas, who raised a point of order against the resolution, stating in part:

> Mr. Speaker, I raise the point of order that this resolution is not privileged from the Committee on Rules; that the Committee on Rules has no authority, in the way that this rule was introduced and passed upon by the committee and reported, to report such a resolution to the House. Only a joint resolution passed by both the House and Senate, and signed by the President, could authorize this House to pass an omnibus bill, embracing the amounts carried in many private bills, and then, after passage, send all of such private bills to the Senate as bills regularly engrossed (1) and passed by the House, as this rule proposes, when they were not so engrossed and passed.

Mr. Blanton continued to speak to his point of order, noting that for a century it had been House practice "that all bills involving a charge upon the Treasury must be considered in the Committee of the Whole House on the State of the Union, unless otherwise considered by unanimous consent. . . . [W]here bills are considered in the House as in the Committee of the Whole," (2) he ob-

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1. An engrossed bill is the final copy of the measure as passed by the House with the text as amended by floor action and certified to by the Clerk of the House. See Ch. 24, infra.

2. Ordinarily, procedure in the House as in Committee of the Whole is only

served, "the rule changes entirely," for the person "in charge of that legislation can move the previous question at any time and shut off debate."

Mr. Blanton additionally expressed reservations as to the effect of the proposal, contending that "old bills, hoary with age and time" could be put back on the calendar and "not a Member of this House would have an opportunity to even raise his voice to show why he made objection to their passage." (3)

Moreover, he contended, "Unless there be two Members simultaneously objecting to it, the bill would be passed." These changes he was convinced would render it "impossible to prevent the passage of the numerous bad bills which have been favorably reported through the years gone by."

Mr. Blanton continued with the argument underlying his point of order (4)

> Mr. Speaker, I ask the Chair to hear me just a moment further on the point of order.

---

by unanimous consent since the rules governing the order of business and admissions of motions make no provision for a motion to consider a matter "in the House as in Committee of the Whole" [4 Hinds' Precedents § 4923]. The Committee on Rules, however, may report a resolution providing a special order for consideration of a measure in the House as in Committee of the Whole [H. Res. 1515, 120 CONG. REC. 40858, 93d Cong. 2d Sess., Dec. 18, 1974]. In recent times, an order for this procedure means merely that the bill will be considered as having been read for amendment and will be open for amendment and debate under the five minute rule [H.R. 18619, 116 CONG. REC. 28050, 91st Cong. 2d Sess., Aug. 10, 1970; Rule XXIII clause 5, *House Rules and Manual* § 870 (1979)] without general debate [4 Hinds' Precedents §§ 4924, 4925; 6 Cannon's Precedents § 639; 8 Cannon's Precedents §§ 2431, 2432] but with the motion for the previous question in order. The Speaker remains in the chair, and when the previous question has been ordered, he makes no report but puts the question on the engrossment and third reading and on the passage [Jefferson's Manual, § 424 (1979)].

3. The rule which was then in effect provided that on each Saturday it would be in order for the House to resolve itself into the Committee of the Whole to consider business on the Private Calendar and that if there were objection or reservation of objection after the Clerk read the bill, there would be "10 minutes' general debate to be divided, five minutes controlled by the Member offering the objection or reservation and five minutes controlled by the chairman of the committee reporting the bill, or in his absence by any Member supporting the bill." [H. Jour. 879. 73d Cong. 2d Sess. (1934)].

4. 79 CONG. REC. 4481, 4482, 74th Cong. 1st Sess.

I make the point of order, Mr. Speaker, that the Rules Committee, with all of its power, has no authority to bring in a rule that will take away from all of the 435 Representatives of the people in the House of Representatives their representative capacity, their privilege of representing the people of the United States as Members of different districts in Congress, with the inherent right to be heard on public questions, especially upon legislation coming up in the House that takes large sums of money out of the Treasury.

Now, if this rule is passed, it will take away from every Member of this House, except the chairman of the committee in charge of legislation on private bill day, the right to be heard, the inherent right to be heard, in his representative capacity on legislation and his right to protest against the passage of bad bills that will wrongfully take large sums of money from the Public Treasury. Why, the one in charge of legislation at that time could move the previous question immediately if he wanted to, for such bills are to be considered in the House.

If the Rules Committee has authority to bring in this kind of rule, Mr. Speaker, I submit to the Chair in all earnestness it has authority to bring in a rule on the floor of this House that will prevent any Member of the House of Representatives, except a member of the Rules Committee, from being heard on any kind of bill that comes up in the House. It would permit the Rules Committee, Mr. Speaker, to bring in a rule that would force the consideration of every supply bill, of every big appropriation bill, to be heard without any debate in the House instead of in the Committee of the Whole House on the state of the Union. Why, the chairman would have the authority to move the previous question any time he wanted to and prevent every Member on the floor except himself from being heard.

THE SPEAKER: Of course, the gentleman knows that in passing on a point of order the Chair cannot take into consideration the effect of a resolution or bill that may be pending; that is a matter that must be considered by the membership itself with respect to the legislation in question.

Shortly thereafter, Mr. Frederick R. Lehlbach, of New Jersey, stated on the point of order:

Mr. Speaker, rule XI, paragraph 45,[5] reads as follows:

> The following-named committees shall have leave to report at any time on the matters herein stated, namely: The Committee on Rules, on rules, joint rules, and order of business.

The resolution under discussion is a resolution amending rule XXIV of the House of Representatives. This disposes of the point of order.

After a brief exchange between Mr. Lehlbach and Mr. Blanton, the Speaker ruled on the point of order as follows:

In disposing of a point of order it is not within the province of the Chair to consider the effect, or what may be the effect, of the passage of any rule or legislation which may be pending. After all, rules reported by the Committee on

5. See Rule XI clause 4(a), *House Rules and Manual* § 726 (1979).

Rules must be considered and acted upon by a majority of the House, which action, of course, is controlling.

The gentleman from New Jersey has read from clause 45 of rule XI, which, with the permission of the House, the Chair will reread:

> The following-named committees shall have leave to report at any time on the matters herein stated, namely: The Committee on Rules, on rules, joint rules, and order of business.

The pending resolution proposes to amend the rules of the House, it relates to the order of business in the House, and, under the rule the Chair has just read, is made a matter of privilege

The point of order is overruled.

§ 53.3 A resolution reported by the Committee on Rules to amend the House rules so as to permit any standing committee or subcommittee thereof to fix a lesser number than a majority to constitute a quorum for the purpose of taking sworn testimony was debated on the floor and recommitted to the Committee on Rules by unanimous consent.

On Sept. 14, 1951,[6] Speaker Sam Rayburn, of Texas, recognized Mr. John E. Lyle, Jr., of Texas, who, by direction of the Committee on Rules, called up House Resolution 386 and asked for its immediate consideration. The resolution read as follows:

> *Resolved*, That rule XI (2)(f) of the Rules of the House of Representatives is hereby amended to read as follows:
>
> "(f) The rules of the House are hereby made the rules of its standing committees so far as applicable, except that a motion to recess from day to day is hereby made a motion of high privilege in said committees, and except that each standing committee, and each subcommittee of any such committee, is authorized to fix a lesser number than a majority of its entire membership who shall constitute a quorum thereof for the purpose of taking sworn testimony: *Provided*, That such quorum shall consist of not less than one member of the majority party and one member of the minority party."

In the course of the ensuing debate, several Members expressed reservations about possible consequences of the rules amendment as drafted. Referring to the last clause of the resolution, Mr. Charles A. Halleck, of Indiana, for example, noted that:[7]

> . . . [I]f this proviso stands as it is written, there would be a complete bar available to either the majority or the minority to prevent the taking of the testimony, through the simple operation by which either all of the members of the majority or the minority, whichever it might be, would absent themselves from the hearing. I think

6. 97 CONG. REC. 11394, 82d Cong. 1st Sess.

7. *Id.* at p. 11397.

that should be corrected. I want this resolution adopted, but I am afraid, as a practical matter, if we write the rule in this fashion we might create a circumstance that would effectively block action by committees that should be taken.

Although Mr. Lyle did propose an amendment to strike the offending language and his amendment was agreed to, he thereafter obtained unanimous consent that the resolution be recommitted to the Committee on Rules.[8]

§ 53.4 In response to a point of order pertaining to the fixing of debate in terms of days rather than hours, the Chair indicated that the Committee on Rules may report a resolution to waive the rules of the House on any matter (except where its authority is limited by the Constitution or other rule).

On Sept. 3, 1940,[9] Speaker pro tempore Jere Cooper, of Tennessee, recognized Adolph J. Sabath, of Illinois, Chairman of the Committee on Rules, who proceeded to call up House Resolution 586 which read, in pertinent part, 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 the bill H.R. 10132, a bill to protect the integrity and institutions of the United States through a system of selective compulsory military training and service. That after general debate, which shall be confined to the bill and continue not to exceed 2 days, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Military Affairs, the bill shall be read for amendment under the 5-minute rule.

During debate, the Chair recognized Mr. Vito Marcantonio, of New York, who raised the following point of order:[10]

Mr. Speaker, I make the point of order that the resolution is contrary to the unwritten law of the House. It has been the universal practice, custom, and tradition of the House to have debate fixed by hours. This resolution fixes general debate by days. This is entirely meaningless, because a day may be terminated by a motion that the Committee rise or by adjournment, and for that reason I press my point of order.

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule. The gentleman from New York makes the point of order that the resolution is contrary to the unwritten rules of the House in that general debate is fixed by days instead of hours.

In the first place, the point of order comes too late.[11]

8. *Id.* at p. 11398.

9. 86 CONG. REC. 11358, 76th Cong. 3d Sess.

10. *Id.* at pp. 11359, 11360.

11. A point of order against a resolution reported from the Committee on

In the second place, this is a resolution reported by the Committee on Rules to change the rules of the House, which is permissible on anything except that which is prohibited by the Constitution.

The point of order is overruled.

Closed Rules

§ 53.5 In the 91st Congress, during consideration of a bill to reorganize the legislative branch, an amendment to Rule XI clause 23, restricting the power of the Committee on Rules to report a "closed rule" was held to change the jurisdiction of the committee, which, under Rule XI clause 17, may report on "rules, joint rules and order of business," and was therefore ruled out of order as in violation of a special rule prohibiting consideration of amendments to that bill having the effect of changing House committee jurisdictions.

On July 29, 1970,[12] the House had resolved itself into the Committee of the Whole for the further consideration of H.R. 17654, a bill to improve the legislative branch of the federal government (the Legislative Reorganization Act of 1970), and for other purposes.

Chairman William H. Natcher, of Kentucky, recognized Mr. Andrew Jacobs, Jr., of Indiana, who offered an amendment which read, in part, as follows:[13]

Sec. 123(a) Clause 23 of Rule XI of the Rules of the House of Representatives is amended by adding at the end thereof the following: "In addition, the Committee on Rules shall not report any rule or order for the consideration of any legislative measure which limits, restricts, or eliminates the actual reading of that measure for amendment or the offering of any amendment to that measure."

Shortly thereafter, Mr. H. Allen Smith, of California, raised a point of order against the amendment:

Mr. Chairman, I raise the point of order that this very definitely limits the jurisdiction of the Rules Committee and would prohibit us from issuing a closed rule and other types of rules. The rule under which this measure was considered strictly prohibits the changing of any jurisdiction of any committee.

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

MR. JACOBS: Mr. Chairman, as I understand the term "jurisdiction," it

Rules must be made before debate begins. For more information on points of order, in general, see Ch. 31, infra.

12. 116 CONG. REC. 26413, 91st Cong. 2d Sess.

13. *Id.* at p. 26414.

means the territory or subject matter over which legal power is exercisable, not the rules by which such power proceeds.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair would like to point out to the gentleman from Indiana that under House Resolution 1093 we have the following language, beginning in line 11:

> No amendments to the bill shall be in order which would have the effect of changing the jurisdiction of any committee of the House listed in Rule XI.

Therefore, the Chair sustains the point of order.

Correcting the Record Through Motion

§ 53.6 A Member having made a motion to correct the Record so as to show the language actually uttered in debate and not as extended and revised, the motion, after debate, was referred to the Committee on Rules.

On July 5, 1945,[14] Mr. Malcolm C. Tarver, of Georgia, addressed Speaker Sam Rayburn, of Texas, and offered the following motion (as a question of the privileges of the House):

> Mr. Speaker, I move that the daily Record of July 2, 1945, which contains in the Appendix on pages A3448 and A3449 a speech entitled "$120,000,000 for Rural Electrification," purporting to have been delivered by the gentleman from Mississippi, Hon. John E. Rankin, be corrected for the permanent or bound copy of the Record, so as to show the exact stenographic report of the colloquy which occurred between myself and the gentleman from Mississippi on that date and as a part of that speech.

Prior to offering the motion, Mr. Tarver had stated that under leave to revise and extend his remarks, the gentleman from Mississippi had so "materially changed and enlarged"[15] certain of the statements he made in the course of a colloquy with Mr. Tarver "as to misrepresent materially the position assumed by me in the colloquy." A unanimous-consent request to effect the same result having been objected to by Mr. Rankin,[16] the quoted motion was then offered presumably as a question of the privileges of the House under Rule IX relating to the accuracy of the Record.

In the debate which ensued, the propriety or impropriety of the revision and extension of the remarks in question was not immediately apparent, thereby prompting Mr. Matthew M. Neely, of West Virginia, to offer the following motion:[17]

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14. 91 CONG. REC. 7221, 79th Cong. 1st Sess.

15. *Id.* at p. 7220.

16. *Id.* at p. 7221.

17. *Id.* at p. 7225.

> Mr. Speaker, in behalf of peace in the House and the orderly progress of legislation, I move that the motion of the gentleman from Georgia be referred to the Committee on Rules.

Shortly thereafter, the Neely motion was agreed to.

Parliamentarian's Note: Although a motion to refer may specify reference to any committee, the Committee on House Administration, it should be noted, has jurisdiction over the correction of the *Congressional Record*.[18]

Establishing Investigatory Committees

§ 53.7 The jurisdiction of the Committee on Rules over resolutions establishing investigatory committees does not extend to provisions in the resolution or in committee amendments thereto calling for such committees' expenses to be paid from the contingent fund of the House, and an amendment from that committee has been held not germane as a matter within the jurisdiction of the Committee on Accounts (now the Committee on House Administration).

On June 21, 1944,[19] Mr. Joe B. Bates, of Kentucky, called up a resolution (H. Res. 551), reported from the Committee on Rules and asked for its immediate consideration. House Resolution 551 provided for the establishment of a special committee to be appointed by the Speaker for the purpose of investigating and reporting back to the House with respect to the campaign expenditures of all candidates for the House. The resolution having been read earlier,[20] Speaker Sam Rayburn, of Texas, directed the Clerk to report the committee amendment in the nature of a substitute.

Section 7 of the committee amendment contained the following language:

> For the purpose of this resolution, the committee, or any duly authorized subcommittee thereof, is authorized to hold such public hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Seventy-eighth Congress, to employ such attorneys, experts, clerical, and other assistants, to require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures, as it deems advisable. The cost of sten-

18. Rule X clause 1(j), *House Rules and Manual* § 679(a) (1979).

19. 90 CONG. REC. 6393, 78th Cong. 2d Sess.

20. *Id.* at p. 6392.

ographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee shall be paid from the contingent fund of the House of Representatives upon vouchers approved by the chairman of the committee or the chairman of any duly authorized subcommittee thereof and approved by the Committee on Accounts.

Immediately after the Clerk read the committee amendment, the Chair recognized Mr. John J. Cochran, of Missouri, who commenced the ensuing exchange:

Mr. Speaker, I make a point of order against the amendment on the ground that the Rules Committee has exceeded its authority, and I respectfully request to be heard on the point of order.

THE SPEAKER: The Chair will hear the gentleman.

MR. COCHRAN: Mr. Speaker, I invite your special attention to the language on page 6, beginning in line 15.

> The expenses of the committee shall be paid from the contingent fund of the House of Representatives upon vouchers approved by the chairman of the committee and the chairman of any duly authorized subcommittee thereof and approved by the Committee on Accounts.

Also to the words on page 6, lines 12 and 13, "and to make such expenditures."

Mr. Speaker, the Committee on Accounts was set up by this House in 1803, long before the Rules Committee was ever heard of. This all-powerful Rules Committee takes it upon itself to assume jurisdiction over the contingent fund of the House. Not only do the rules of the House[1] place that jurisdiction in the Committee on Accounts, but your Committee on Accounts is subject to several statutes, specifically referring to the activities of the Committee on Accounts, and the contingent fund.

Continuing to address himself to the point of order, Mr. Cochran additionally voted:[2]

If this precedent that the Rules Committee seeks to establish is adopted by the House, the House will lose control over its contingent fund. The language that I have read places absolutely no limitation upon the amount this select committee can spend. Vouchers are to be signed by the chairman of the select committee or any subcommittee thereof, and the only jurisdiction the Committee on Accounts has is to put its signature on the voucher and pass it along for payment.

Now, if you can do that with this select committee, you can do it with

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1. At the time, Rule XI clause 36 provided that the jurisdiction of the Committee on Accounts extended to 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 the reporting the same to the Sergeant at Arms." [H. Jour. 699, 78th Cong. 2d Sess. (1944)]. Presently such jurisdiction is vested in the Committee on House Administration [Rule X clause 1(j), *House Rules and Manual* § 679(a) (1979)].

2. 90 CONG. REC. 6393, 6394, 78th Cong. 2d Sess.

every select committee and every special committee that this House sets up. . . .

The practice has always been for the Accounts Committee to hold hearings and require the select or special committee to state its needs and justify its request.

If it is the desire of the House to pass this jurisdiction to the Rules Committee, then change the rules, but do not let the Rules Committee assume jurisdiction now or at any time in the future unless you do. It is time this House assert itself and serve notice on the Rules Committee to stay within its jurisdiction. . . .

I submit, Mr. Speaker, that the Committee on Rules having taken jurisdiction which did not belong to it, the language I object to is subject to a point of order; and I hope the Chair will so hold.

At the conclusion of Mr. Cochran's remarks, Mr. Bates asserted that he had "no desire to usurp any of the rights of the Committee on Accounts," and expressed his belief that such a feeling was shared by "members on both sides of the Committee on Rules."

Mr. Earl C. Michener, of Michigan, also a member of the Committee on Rules, expressed his agreement to the point of order, and in so doing, delineated one of the key limitations of the Committee on Rules' jurisdiction over measures creating investigatory committees:

I realize there is much truth in what the gentleman from Missouri says. This amendment would bypass the Committee on Accounts. To my knowledge that has never been done in the setting up of an investigating committee. The Rules Committee has jurisdiction over investigating committee resolutions, but the Accounts Committee has jurisdiction over the funds with which the committee operates. I have often said it is a good bit like when my little boy used to ask his mother for a new football. She would say: "Yes, John, you may have the football, but you must go to daddy and get the money." That is the way these investigations are controlled; and, personally, I could not speak in opposition to the point of order.

Following Mr. Michener's remarks, Mr. Howard W. Smith, of Virginia, another member of the committee, stated also that "It was never the desire of the Committee on Rules to usurp the authority of the Committee on Accounts." He added, however, that he believed that "the language objected to is language that has been used in previous resolutions where no point of order has been raised to it."

Shortly thereafter, the Speaker rendered his decision as follows:

The Chair has before it a case exactly in point, and the interesting thing about it is that it begins with the statement:

On May 3, 1933, Mr. Howard W. Smith of Virginia, by direction of the Committee on Rules, and so forth, presented a rule.

A point of order was made against the rule and the Chair held as fol-

lows—and it is exactly on all fours with the instant case:

> The Chair thinks that the provision incorporated in section 5 of the resolution authorizing the committee to employ suitable counsel, assistants, and investigators in the aid of its investigation, and also the provision authorizing all necessary expenses of the investigation to be paid on vouchers approved by the chairman of the committee, is a matter properly within the jurisdiction of the Committee on Accounts.

That is exactly the proposition that is before the Chair at this time. The Chair could cite other precedents.

The point of order, therefore, is sustained as against the committee amendment.[3]

Parliamentarian's Note: This point of order against the amendment did not destroy the privilege of the resolution. This was a germaneness ruling against the amendment. Mr. Howard W. Smith, of Virginia, then offered another substitute the same as the original amendment but without the language about the contingent fund. Compare this situation with those contained in 4 Hinds' Precedents § 4623, where it was held that a bill containing nonprivileged matter in the original text cannot be considered as privileged merely based on a committee amendment removing the nonprivileged matter, and in 8 Cannon's Precedents § 2300, where a funding resolution reported from the Committee on Accounts and also containing legislative provisions within the jurisdiction of other committees was held not to be privileged.

Investigations Pertaining to Impeachment

§ 53.8 The Speaker has referred to the Committee on Rules resolutions authorizing the Committee on the Judiciary to investigate the conduct of federal officials and directing that committee to report its findings to the House "together with such resolutions of impeachment as it deems proper."

3. For a comparable instance in a later Congress, see 95 CONG. REC. 1617–19, 81st Cong. 1st Sess., Feb. 28, 1949, where a resolution (H. Res. 44), calling for a study of Panama Canal tolls by the Committee on Merchant Marine and Fisheries was reported out by the Committee on Rules with a provision authorizing the former committee "to make such expenditures as it deems advisable" [within a $15,000 limit] from the contingent fund of the House, a matter within the jurisdiction of the Committee on House Administration. The Member who called the measure up, John E. Lyle, Jr. [Tex.], announced that "the resolution must be amended to comply with the rules of the House" and introduced an amendment to strike the contingent fund provision.

On Feb. 21, 1966,[4] pursuant to a previous order of the House, Speaker pro tempore Carl Albert, of Oklahoma, recognized Mr. H. R. Gross. of Iowa:

> Mr. Speaker, on file in the U.S. Supreme Court, ignored and gathering dust for nearly 4 years, is an official transcript that sets forth in detail the shocking story of a bitter feud among Federal judges in Oklahoma City, Okla.
>
> The transcript is the verbatim statement of Federal Judge Stephen S. Chandler in which he accuses Federal Judges Alfred P. Murrah and Luther Bohanon of persecution.

Mr. Gross then elaborated on the contents of the transcript which included allegations of telephone tapping, attempted bribery, wrongful assertion of judicial power, and conduct unbecoming to the federal judiciary in general. He concluded his statement by observing:[5]

> As a citizen and a Member of Congress, I cannot sit idly by and watch while the respect and confidence in the Federal judiciary is undermined in Oklahoma or any other area of the Nation. And I submit that there are other areas that need attention.
>
> I urge in the strongest terms at my command that the proper committees of Congress launch an immediate investigation.

4. 112 CONG. REC. 3489, 89th Cong. 2d Sess.
5. *Id.* at p. 3490.

On Feb. 22, 1966,[6] the Record reveals that a measure (H. Res. 739), introduced by Mr. Gross "authorizing the Committee on the Judiciary to conduct certain investigations" was referred by Speaker John W. McCormack, of Massachusetts, to the Committee on Rules.[7]

§ 53.9 Resolutions directly calling for the impeachment or censure of the President are referred by the Speaker to the Committee on the Judiciary, whereas resolutions calling for an investigation by that committee or by a select committee with a view toward impeachment are referred to the Committee on Rule.

On Oct. 23, 1973,[8] following dismissal of Special Prosecutor Archibald Cox by President Richard M. Nixon, and the resignations of Attorney General Elliot Richardson and Assistant Attorney General William D. Ruckelshaus, numerous resolutions were offered by Members calling for a wide range of congressional ac-

6. 112 CONG. REC. 3665, 89th Cong. 2d Sess.
7. For information on impeachment powers, generally, see Ch. 14, supra.
8. 119 CONG. REC. 34871–74, 93d Cong. 1st Sess.

tion. Speaker Carl Albert, of Oklahoma, referred these proposals either to the Committee on Rules or to the Committee on the Judiciary, depending upon the wording of each measure.

All of the aforementioned resolutions directing the Committee on the Judiciary to investigate the President's conduct (H. Res. 644, H. Res. 645), or to investigate whether grounds for his impeachment existed (H. Res. 626, H. Res. 627, H. Res. 628, H. Res. 629, H. Res. 630, H. Res. 641, H. Res. 642), were referred by the Chair to the Committee on Rules, as were those measures calling for such inquiries by a select committee (H. Res. 637, H. Res. 646), or without designating a committee (H. Res. 636). Precedents supporting such referrals[9] date from the 19th century, and are premised on the theory that the very act of directing a committee to undertake an investigation amounts to the adoption of a new rule; this is understood to be so regardless of whether the measure pertains to a standing committee or whether a select committee is created, in which case a "rule" establishing jurisdiction would be essential.

All of the resolutions directly calling for the impeachment (H. Res. 625, H. Res. 631, H. Res. 635, H. Res. 638, H. Res. 643, H. Res. 648, H. Res. 649), or censure (H. Con. Res. 365), of the President were referred by the Chair to the Committee on the Judiciary in view of that committee's longstanding historical jurisdiction over the subject matter.

Resolution Proposing Special or Standing Committee Investigation

§ 53.10 A resolution proposing that a question of the privileges of the House be investigated by a special committee or by a standing committee was referred, by unanimous consent, to the Committee on Rules.

On June 1, 1939,[10] Speaker William B. Bankhead, of Alabama, recognized Mr. Clare E. Hoffman, of Michigan, who rose to a question of the privilege of the House, and submitted a resolution (H. Res. 208), with respect thereto.

The resolution recounted in the preamble certain events which took place on the floor of the House involving a colloquy between two Members and a unanimous-consent request by one of

9. 4 Hinds' Precedents §§ 4322–4324; 7 Cannon's Precedents § 2048.

10. 84 CONG. REC. 6531, 76th Cong. 1st Sess.

those Members to have certain remarks of his deleted from the Record. Contending that the Record as ultimately published failed to reflect a true account of the events which took place, the resolution stated, in part:

> Now, therefore, be it
>
> *Resolved*, That a committee of three be appointed by the Speaker of the House, or, in the discretion of the Speaker, make reference to a standing committee of the House, to ascertain from the reporters of the House and from such other sources as they may deem trustworthy a true and correct record of what did occur, deleting from such record all such matters which the gentleman from Oklahoma [Mr. Massingale] was given permission to delete, and retaining in the Record all such other transactions and proceedings which occurred on the floor of the House and for the withdrawal of which permission was not given; and thereupon to report its conclusions to the House, together with such recommendations as it may deem desirable.

After the Speaker indicated that matters stated in the resolution "probably" raised a question of the privileges of the House, the following exchange ensued:[11]

> THE SPEAKER: . . . Is it the desire of the gentleman to have the resolution referred to a committee?
>
> MR. HOFFMAN: Either to a special committee or to any standing committee, in the discretion of the Speaker.
>
> THE SPEAKER: The Chair will state that in the opinion of the Chair the Committee on Rules would have jurisdiction over the resolution.
>
> Is there objection to referring the resolution of the gentleman from Michigan to the Committee on Rules? [After pause.] The Chair hears none, and it is so ordered.

Joint Resolutions to Establish Joint Committees

§ 53.11 Joint resolutions providing for the establishment of joint congressional committees have been within the jurisdiction of the Committee on Rules.

On June 2, 1937,[12] Speaker William B. Bankhead, of Alabama, recognized Mr. Robert L. Doughton, of North Carolina, who sought unanimous consent to take from the Speaker's table and consider a joint resolution (S. J. Res. 155), to create a Joint Congressional Committee on Tax Evasion and Avoidance.

The resolution in question read as follows:[13]

> *Resolved, etc.*, That (a) there is hereby established a joint congressional committee to be known as the Joint Committee on Tax Evasion and Avoid-

11. *Id.* at p. 6532.

12. 81 CONG. REC. 5243, 75th Cong. 1st Sess.

13. *Id.* at pp. 5243, 5244.

ance (hereinafter referred to as the joint committee).

(b) The joint committee shall be composed of six Members of the Senate who are members of the Committee on Finance, appointed by the President of the Senate, and six Members of the House of Representatives who are members of the Committee on Ways and Means, appointed by the Speaker of the House of Representatives. A vacancy in the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as the original selection.

Sec. 2. It shall be the duty of the joint committee to investigate the methods of evasion and avoidance of income, estate, and gift taxes, pointed out in the message of the President transmitted to Congress on June 1, 1937, and other methods of tax evasion and avoidance, and to report to the Senate and the House, at the earliest practicable date, and from time to time thereafter, but not later than February 1, 1938, its recommendations as to remedies for the evils disclosed by such investigation.

Sec. 3. (a) The joint committee, or any subcommittee thereof, shall have power to hold hearings and to sit and act at such places and times, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to have such printing and binding done, and to make such expenditures, as it deems advisable. Subpenas shall be issued under the signature of the chairman of said joint committee, and shall be served by any person designated by him. Amounts appropriated for the expenses of the joint committee shall be disbursed one-half by the Secretary of the Senate and one-half by the Clerk of the House. The provisions of sections 101 and 102 of the Revised Statutes shall apply in case of any failure of any witness to comply with any subpena, or to testify when summoned, under authority of this joint resolution.

(b)(1) The Secretary of the Treasury and any officer or employee of the Treasury Department, upon request from the joint committee, shall furnish such committee with any data of any character contained in or shown by any return of income, estate, or gift tax.

(2) The joint committee shall have the right, acting directly as a committee or by or through such examiners or agents as it may designate or appoint, to inspect any or all such returns at such times and in such manner as it may determine.

(3) The joint committee shall have the right to submit any relevant or useful information thus obtained to the Senate, the House of Representatives, the Committee on Ways and Means, or the Committee on Finance, and shall have the right to make public, in such cases and to such extent as it may deem advisable, any such information or any such returns. The Committee on Ways and Means or the Committee on Finance may submit such information to the House or to the Senate, or to both the House and the Senate, as the case may be.

Sec. 4. The joint committee shall have power to employ and fix the compensation of such officers, experts, and employees as it deems necessary for

the performance of its duties, but the compensation so fixed shall not exceed the compensation fixed under the Classification Act of 1923, as amended, for comparable duties. The joint committee is authorized to utilize the services, information, facilities, and personnel of the departments and agencies in the executive branch of the Government and of the Joint Committee on Internal Revenue Taxation.

Sec. 5. The joint committee may authorize any one or more officers or employees of the Treasury Department to conduct any part of such investigation on behalf of the committee, and for such purpose any person so authorized may hold such hearings, and require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, administer such oaths, and take such testimony as the committees may authorize. In any such case subpenas shall be issued under the signature of the chairman of the joint committee and shall be served by any person designated by him.

Sec. 6. All authority conferred by this joint resolution shall expire February 1, 1938.

Several Members commented on the resolution while reserving the right to object. Mr. Maury Maverick, of Texas, announced[14] his intention to object after stating that he did not believe the House had the opportunity to give the measure "mature consideration." Accordingly, unanimous consent was denied.

On June 7, 1937,[15] the joint resolution having been referred in the interim to the Committee on Rules, and reported therefrom together with a special rule providing for its consideration, the Speaker recognized Mr. Bertrand H. Snell, of New York, who raised the following point of order:

I make a point of order with respect to the reference of Senate Joint Resolution 155, to create a Joint Congressional Committee on Tax Evasion and Avoidance. This resolution was referred erroneously, in my judgment, to the Rules Committee. I will read section 35, rule XI:[16]

All proposed action touching the rules, joint rules, and order of business shall be referred to the Committee on Rules.

I appreciate the fact that in making this point of order I am making it to the court who made the reference, and I am making this point of order under no misapprehension. . . .

I appreciate the fact that the average investigation resolution goes to the Committee on Rules, because it has been determined that that was simply a change in the rules of the House providing for a new committee to make an investigation; but this Senate Joint Resolution 155 goes much further than any resolution of this kind that has ever come to my attention. This resolution is much more than an investigation; it is just full of legislation. In the first place, it authorizes an appropriation. It places new duties on the Secretary of the Treasury. It provides for

14. *Id.* at p. 5245.

15. 81 CONG. REC. 5369, 75th Cong. 1st Sess.

16. The equivalent of this provision is set forth in Rule X clause 1(q), *House Rules and Manual* § 786(a) (1979).

the repeal of the law for publicity of income-tax returns under certain circumstances. It allows this committee to create positions, fix compensation, and so forth. It also delegates new authority to the employees of the Department of the Treasury. It is so full of legislation that even the chairman of the Rules Committee himself,[17] under a reservation to object to the immediate consideration of the resolution last week, brought up the question of the legislation contained in the resolution. There are at least five definite legislative proposals in this bill.

As we all know, Rules Committee is not a legislative committee, and it has never been the custom of the House to refer legislative proposals to this committee. If the Chair needs any further proof that this is legislation, I refer to the fact that even the Parliamentarian of the House has placed this Senate Joint Resolution 155 on the Union Calendar and I expect he did so because it authorized an appropriation of funds out of the Treasury of the United States.

After addressing himself to the anticipated issue of tardiness in the making of his point of order, Mr. Snell concluded his initial remarks by stating:

. . . This [S.J. Res. 155] in reality, is nothing but a legislative proposal. I think it was erroneously referred to the Rules Committee and that the Rules Committee had no jurisdiction whatever over matters of this character.

I ask a ruling from the Chair.

17. John J. O'Connor (N.Y.).

Parliamentarian's Note: Ordinarily a motion to rerefer a bill erroneously referred is in order under Rule XXII clause 4 on motion of a committee either claiming or relinquishing jurisdiction, but when a bill has been reported such a motion comes too late and a point of order against the Speaker's referral does not lie.

The Speaker then recognized Mr. O'Connor, who indicated it was his understanding that the "primary ground" for the referral of Senate Joint Resolution 155 was that it "proposed an investigation." He described the language of the joint resolution as:

. . . practically identical with the joint resolution which created the Joint Committee on the Reorganization of the Executive Branches of the Government and which was likewise referred to the Committee on Rules and reported out by the Rules Committee.

This Senate Joint Resolution 155, not being a privileged matter, because it contains provisions as to expenditures required the reporting of a separate House resolution for its consideration. While the joint resolution, Senate Joint Resolution 155, is on the Union Calendar, No. 328, the other resolution from the Rules Committee, House Resolution 226, for the consideration of the joint resolution has been placed on the House Calendar No. 113.

Mr. Snell and Mr. O'Connor debated the matter from their different perspectives:[18]

18. 81 CONG. REC. 5369, 5370, 75th Cong. 1st Sess.

MR. SNELL: . . . Would the gentleman maintain that the Rules Committee would have jurisdiction over matter such as is contained in Senate Joint Resolution 155?

MR. O'CONNOR of New York: Oh, no; of course it would not. It would not have jurisdiction over appropriations. That is the only big question that I see.

MR. SNELL: There is authorization for appropriation, also delegation of authority in the resolution and new duties for the Secretary of the Treasury. It also creates new positions. There are at least five definite subjects of legislation contained in the joint resolution.

MR. O'CONNOR of New York: As to the delegation of duties to the employees of the Treasury Department, I do not believe that is any different than permitting this joint committee to employ the services of persons connected with those departments. Strictly under the rules, of course, under subsection 35 of rule XI, nothing is said about the Rules Committee having jurisdiction of investigations, but as far as I remember—and I served for at least 8 years under the distinguished chairmanship of the gentleman from New York [Mr. Snell]—as far back as I can remember, all of these investigating resolutions went to the Rules Committee. I think that is the basis of referring this resolution, that is based on precedent. It is a custom, a practice, that has grown up in the House.

Mr. Snell continued to argue that the joint resolution contained legislative matter, contending that the language granting the joint committee power "to make such expenditures as it deems advisable" amounted to authorization for an appropriation from the Committee on Appropriations. While Mr. O'Connor did not agree, he conceded the language was "not usual, I confess."

Mr. Clarence Cannon, of Missouri, stated on the point of order:

Mr. Speaker, there are few bills of all the thousands that are introduced in the House of Representatives which do not contain material that would warrant their being sent to any one of a number of committees. Some of them carry provisions which come within the jurisdiction of as many as six or eight committees of the House; and on the other hand few bills are referred to any committee which do not contain material which, if presented alone, would come within the jurisdiction of some other committee or committees of the House. It naturally follows that decision as to which one of a number of committees having some claim of jurisdiction [to which] bills are to be referred is a daily occurrence at the Speaker's table. But the rule followed in such references is that the bill goes to that committee having jurisdiction of the principal objective for which the bill was introduced. The primary purpose of the bill is to secure an investigation, and bills providing for investigations in effect propose changes in the rules, and therefore are referred to the Committee on Rules.

The Speaker then made his ruling as follows: (19)

19. *Id.* at pp. 5370, 5371.

THE SPEAKER: The Chair is ready to rule.

The gentleman from New York [Mr. Snell] raises the point of order that Senate Joint Resolution 155 was improperly referred to the Committee on Rules for consideration by that committee. The gentleman from New York further makes the suggestion that although the Rules Committee had reported this resolution back to the House and that it had gone on the calendar, this is his first opportunity to raise a point of order against the jurisdiction of the Committee on Rules.

With reference to that particular phase of the gentleman's statement, section 2113 of volume 7 of Cannon's Precedents of the House of Representatives, states:

> After a public bill has been reported, it is not in order to raise a question of jurisdiction.

Although it may be true, as stated by the gentleman from New York, that this is his first opportunity to raise that question, in view of the fact the bill has already been reported by the committee to which it was referred, the Chair rules it is too late to raise that question.

On the general proposition raised by the gentleman from New York, the Chair may say this is not a matter of first impression. The question as to the jurisdiction of the Committee on Rules over joint resolutions creating joint committees to make investigations was decided by Speaker Longworth on April 1, 1930. On that occasion the gentleman from New York, Mr. Snell, chairman of the Committee on Rules reported from that committee House Joint Resolution 251, which authorized the appointment of a commission to be composed of Senators, Representatives, and persons to be appointed by the President. The commission was empowered to study the feasibility of equalizing the burden and to minimize the profits of war.

The report on this joint resolution was referred to the calendar and the Committee of the Whole House on the state of the Union.

On April 1, 1930, when Mr. Snell called up the resolution for consideration, Mr. Stafford, of Wisconsin, raised the question as to the jurisdiction of the Committee on Rules to consider and report on the matters therein contained. In debating the point of order the gentleman from New York [Mr. Snell], among other things, stated:

> We propose setting up a special committee to do a special piece of work, and that comes under the general provision of the rules, because it is a change of the rules for a specific purpose. As far as I know, there has never been any decision against it, and I believe it is entirely in accordance with the rules, because we are changing the rules for a specific purpose, namely setting up a special committee to do a specific piece of work. As far as I know, all the decisions have been to the effect that such matters are privileged to come from the Committee on Rules.

That is the end of the argument made by the gentleman from New York at that time on this particular question.

The Speaker, Mr. Longworth, in deciding the point of order, said:

> It has been the common practice of the occupant of the chair, and I think of many of his predecessors, to

> invariably refer bills and joint resolutions which create a joint commission, particularly composed of Members of the House, to the Committee on Rules. There is no other committee to which they could possibly go. It is a change in the rules, insofar as it permits and provides that Members of the House shall serve on the commission which it creates.
>
> It appears to the Chair that the reasoning of the gentleman from New York, enunciated at that time, and the decision of the then Speaker, Mr. Longworth, are sound in principle and in precedent. Acting upon that decision as authority, the Chair overrules the point of order.

Parliamentarian's Note: Under the provisions of Rule X in the 94th Congress,[20] such matters may now be referred simultaneously to more than one committee, sequentially, or even divided into two or more parts.

Consideration of Bill to Amend Nonexisting Act

§ 53.12 The Committee on Rules may report a resolution making in order the consideration of a bill to amend a nonexisting act (another bill not yet signed into law), and a point of order with respect thereto is a question for the House, and not the Chair, to decide.

On May 13, 1953,[1] Speaker Joseph W. Martin, Jr., of Massachusetts, recognized Leo E. Allen, of Illinois, Chairman of the Committee on Rules, who called up House Resolution 233 and asked for its immediate consideration. The resolution 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. 5134), to amend the Submerged Lands Act.

Immediately after the Clerk read the resolution, the following exchange took place:

> MR. [MICHAEL A.] FEIGHAN [of Ohio]: Mr. Speaker, a point of order.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. FEIGHAN: Mr. Speaker, I make a point of order against the consideration of this rule because it attempts to make in order the consideration of the bill H.R. 5134, which is a bill to amend a nonexisting act.
>
> THE SPEAKER: The Chair will state that the point of order that has been raised by the gentleman from Ohio is not one within the jurisdiction of the Chair, but is a question for the House to decide, whether it wants to consider such legislation.

Although further discussion ensued regarding the necessity and rationale for this legislation[2] the

20. Rule X clause 5, *House Rules and Manual* § 700 (1979).

1. 99 CONG. REC. 4877, 83d Cong. 1st Sess.

2. *Id.* at pp. 4877–81.

resolution was agreed to by voice vote.[3]

Parliamentarian's Note: After it passed the House, H.R. 4198, the initial bill providing for a Submerged Lands Act, was passed by the Senate with amendments. H.R. 5134, an effort to amend the as yet nonexistent Submerged Lands Act, was intended to counter the Senate's removal of title III from the provisions of H.R. 4198. Ultimately, both measures became part of the Submerged Lands Act.[4]

Request to Senate

§ 53.13 In the House, a resolution raising a question of the privileges of the House requesting the Senate to expunge debate as well as certain rollcall votes of the House, and an editorial critical of the House, inserted in the Record by a Senator, was, on motion, referred to the Committee on Rules.

On July 12, 1956,[5] Speaker Sam Rayburn, of Texas, recognized Mr. Clare E. Hoffman, of Michigan, who rose to a question of personal privilege which he later consolidated[6] by unanimous consent with a question of the privilege of the House. Mr. Hoffman took exception to certain matter inserted in the Record by a Senator including the Houses' rollcall votes on H.R. 7535, the "Federal aid to education bill," and the "Powell amendment" thereto, along with the state and political affiliation of each Member voting, certain critical excerpts from a press editorial, and remarks from the floor of the Senate.

After reading some of the offending material, Mr. Hoffman offered House Resolution 588, which read as follows:

> *Resolved,* whereas in the Congressional Record of July 9, 1956, certain articles appear which reflect upon the integrity of the House as a whole in its representative capacity, and upon individual Members of the House; and
>
> Whereas such statements tend to disgrace, degrade, and render ineffective the actions of the Members of the House; and
>
> Whereas the statements so made and carried in the Record adversely affect the rights of the House collectively, its safety, dignity, and the integrity of its proceedings: Now, therefore, be it
>
> *Resolved,* That the House hereby by the adoption of this resolution most re-

3. *Id.* at p. 4881.
4. 43 USC § 1301. H.R. 4198, approved May 22, 1953, became Pub. L. No. 83–31. H.R. 5134, approved Aug. 7, 1953, became Pub. L. No. 83–212.
5. 102 CONG. REC. 12522, 84th Cong. 2d Sess.
6. *Id.* at p. 12523.

spectfully requests that the other body expunge from its records the rollcall votes and remarks appearing on pages 11016–11017 and the remarks appearing on page A5384 of the daily Congressional Record of July 9, 1956, under the caption "Ignoring the Children"; and be it further

Resolved, That a copy of this resolution be transmitted to the Presiding Officer of the other body.

Following some additional remarks by Mr. Hoffman, the Speaker recognized Mr. John W. McCormack of Massachusetts, who moved that the resolution be referred to the Committee on Rules. The motion was agreed to.

Special Rules

§ 53.14 A point of order against a special order reported from the Committee on Rules, alleging lack of jurisdiction by the committee reporting the bill made in order, will not lie, the Committee on Rules having authority to report a resolution making any properly or improperly referred bill a special order of business.

On May 2, 1939,[7] Samuel Dickstein, of New York, Chairman of the Committee on Immigration and Naturalization (now the Committee on the Judiciary), raised a point of order against a resolution (H. Res. 175), reported by the Committee on Rules providing that upon its adoption, the House would resolve itself into the Committee of the Whole for the consideration of a bill (H.R. 5643), investing U.S. circuit courts of appeals with original and exclusive jurisdiction to review certain alien detention orders. The basis of Mr. Dickstein's point of order as Speaker William B. Bankhead, of Alabama, later phrased it[8] was that "the Committee on the Judiciary, to which it was referred, had no jurisdiction or authority under the rules of the House to consider the bill; therefore it had no legal right to report the bill to the House for its consideration under the rules of the House." The substance of this argument was not essential to the Chair's decision, however, since the point of order was overruled as being untimely.[9]

Notwithstanding this result, Mr. Carl E. Mapes, of Michigan, sought to examine the "jurisdictional defects" issue as the following exchange attests:

MR. MAPES: Mr. Speaker, in order to protect the rights of the Committee on Rules, will the Chair permit this obser-

7. 84 CONG. REC. 5052, 76th Cong. 1st Sess.

8. *Id.* at p. 5054.

9. *Id.* at p. 5055.

vation? The gentleman from New York slept on his rights further until the Committee on Rules reported a rule making the consideration of this measure in order. Even though the reference had been erroneous and the point of order had been otherwise made in time, the Committee on Rules has the right to change the rules and report a rule making the legislation in order. This point also might be taken into consideration by the Speaker, if necessary.

THE SPEAKER: The Chair is of the opinion that the statement made by the gentleman from Michigan, although not necessary to a decision of the instant question, is sustained by a particular and special decision rendered by Mr. Speaker Garner on a similar question. The decision may be found in the Record of February 28, 1933. In that decision it is held, in effect, that despite certain defects in the consideration or the reporting of a bill by a standing committee, such defects may be remedied by a special rule from the Committee on Rules making in order a motion to consider such bill. The Chair thinks that that decision by Mr. Speaker Garner clearly sustains the contention made by the gentleman from Michigan.

MR. MAPES: I call attention to the point, Mr. Speaker, only for the purpose of future reference. I agree fully with the ruling of the Speaker.

Parliamentarian's Note: In this instance, it does not seem that the special rule cured any defect since no waivers of points of order were stated in the rule. Failure to move rereferral under Rule XXII clause 4 prior to the report of the Committee on the Judiciary conferred jurisdiction on that committee over the bill in question.

§ 53.15 The rules of the House give the Committee on Rules the authority to report resolutions providing for special orders of business; and a point of order does not lie against such a resolution because its adoption would have the effect of abrogating another standing rule of the House.

On Nov. 28, 1967,[10] by direction of the Committee on Rules, Mr. Claude D. Pepper, of Florida, called up House Resolution 985 and asked for its immediate consideration. The resolution provided that upon its adoption, the House would concur in Senate amendments to a House bill (H.R. 2275) with a further amendment.

H.R. 2275 was originally a private bill providing relief for an individual. The Senate passed the bill with an amendment which basically provided that all seats in the House of Representatives shall be filled by election of Members from districts. House Resolution 985 provided for the amendment of that Senate amendment

10. 113 CONG. REC. 34032, 90th Cong. 1st Sess.

in order to permit those states which had always elected their Representatives at—large to continue to do so for one more Congress.

In the course of discussion, Mr. Paul C. Jones, of Missouri, made the point of order that the proceedings were in violation of a House rule.[11] The following exchange took place:

> Mr. Jones of Missouri: All right, we will start with rule XX. I will take it under rule XX, which provides—and I can read the English language, though I cannot give you a legal interpretation—
>
> > Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the state of the Union, if, originating in the House—
>
> Which this one did not—
>
> it would be subject to that point—
>
> Then they give a proviso—
>
> That a motion to disagree with the amendments—
>
> And there is no motion to disagree. The motion in the resolution is to agree with the amendment, not to disagree with it. I think at that point someone slipped up. I said I am not a lawyer, but I think I can read the English language, and I have a pretty good idea of what the intention was. I think I have a pretty good idea of what the intentions of the Members of the House were. I ask the Members of the House to give this matter consideration. We are voting now upon a principle and not upon some specific bill that has never been considered, in this House and which rule XX provides should be considered in the Committee of the Whole.
>
> THE SPEAKER [John W. McCormack, of Massachusetts]: The Chair is prepared to rule. The Chair has given serious consideration to the point of order raised by the gentleman from Missouri. The Committee on Rules has reported out a special rule. It is within the authority of the rules, and a reporting out by the Rules Committee is consistent with the rules of the House. Therefore, the Chair overrules the point of order.

Discussion proceeded, and the previous question was moved.[12]

At this juncture, Mr. Jones again raised his point of order, and the following exchange ensued:

> MR. JONES of Missouri: Mr. Speaker, I make a point of order against a vote on this resolution and I make the point of order based entirely on rule XX, which says that any amendment of the Senate to any House bill shall be subject to a point of order that it shall first be considered in the Committee of the Whole House on the State of the Union if it originated in the House it would be subject to that point of order. I believe there is no question about it being subject to a point of order should it originate here in this House. Until that issue is debated in the Committee of the Whole House on the State of the

11. *Id.* at p. 34033.

12. *Id.* at o. 34038.

Union I believe that we are violating rule XX of the House rules.

THE SPEAKER: The Chair will state that the Chair has previously ruled on the point of order raised by the gentleman, and the matter is one that is now before the House for the consideration of the House, and the will of the House.

For the reasons heretofore stated and now stated, the Chair overrules the point of order.

MR. JONES of Missouri: Respectfully, Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. JONES of Missouri. Mr. Speaker, can the Chair tell me under what authority the House can consider this in the House rather than in the Committee of the Whole House on the State of the Union, in view of rule XX which says it shall first be considered in the Committee of the Whole House on the State of the Union?

THE SPEAKER: The Chair will state that the House can change its rules at any time upon a resolution that is properly before the House reported by the Committee on Rules. The present resolution has been put before the House by the Committee on Rules within the authority of the Committee on Rules, therefore the matter presents itself for the will of the House.[13]

§ 54. Committee Procedure

The rules expressly grant privileged status to certain actions of the Committee on Rules. It may sit, without special leave, even while the House is reading a measure for amendment under the five-minute rule.

While the Committee on Rules is unique among the House's standing committees, it is subject to most of the rules' provisions affecting them.

The committee is completely exempt, however, from a number of provisions affecting most standing committees. Thus, the Committee on Rules is not obliged to provide time for, or even to include at all, in its reports any supplemental, minority, or additional views of its members.[14] Similarly, the committee is under no obligation under House rules "to make public announcement of the date, place, and subject matter of any hearing" it plans to conduct.[15] Moreover, the committee is exempt from certain rule provisions which pertain solely to standing committees with legislative jurisdiction. For example, the requirements of Rule XIII clause 7[16] pertaining to the inclusion, in reports accompanying public bills, of

13. Special rules from the Committee on Rules and their effect on the order of business are treated in Ch. 21, infra.

14. See Rule XI clause 2(1)(5), *House Rules and Manual* § 714 (1979).

15. See Rule XI clause 2(g)(3), *House Rules and Manual* § 708 (1979).

16. *House Rules and Manual* § 748(b) (1979).