§ 6. Chairman's Role; Jurisdiction

Points of order relating to procedure arising in the Committee of the Whole are decided by the Chairman.[8] Rule XXIII clause 1[9] empowers the Chairman to cause the galleries or lobbies to be cleared in case of disturbance or disorderly conduct. Nonetheless, in cases of extreme disorder the Speaker has taken the Chair and restored order without a formal rising of the Committee.[10] The Chairman is assisted by the Sergeant at Arms who attends sittings of the Committee to maintain order under direction of the Chair.[11]

In the Committee of the Whole only the Chairman may recognize Members for debate.[12] However, like the Speaker, he is forbidden from recognizing requests to suspend the rule of admission to the floor.[13] The Chairman has a duty to call to order any Member who violates the privileges of debate[14] even in the absence of any suggestion from the floor.[15]

Ruling on Points Not in Issue

§ 6.1 The Chair does not rule on issues not presented in a point of order.

On June 27, 1949,[16] during consideration of H.R. 4009, the

8. 5 Hinds' Precedents §§ 6927, 6928. But see 4 Hinds' Precedents § 4783, which states that in an exceptional case the Committee rose and reported a question of order for decision of the House when an appeal was taken from a ruling of the Chairman.

   In rare cases where the Chairman has been defied or insulted, he has directed the Committee to rise, left the Chair, and, following assumption of the Chair by the Speaker, reported the facts to the House. Note to Rule XXIII clause 1, *House Rules and Manual* § 862 (1973); 2 Hinds' Precedents §§ 1350, 1651, 1653.

9. *House Rules and Manual* § 861 (1979).

10. Note to Rule I clause 2, *House Rules and Manual* § 622 (1979); 2 Hinds' Precedents §§ 1348, 1648–1653, 1657.

11. Rule IV clause 1, *House Rules and Manual* § 648 (1979); Rule XXIII clause 1, *House Rules and Manual* § 862 (1979); and 1 Hinds' Precedents § 257.

12. 5 Hinds' Precedents § 5003. See § 15, infra, for a discussion of recognition for debate.

13. 5 Hinds' Precedents § 7285. See also Rule XXXII, *House Rules and Manual* §§ 919–921 (1979) relating to admission to the floor.

14. 8 Cannon's Precedents § 2515. See § 17, infra, for discussion of the procedure when words are taken down.

15. 8 Cannon's Precedents § 2520.

16. 95 CONG. REC. 8480, 8536–38, 81st Cong. 1st Sess.

Housing Act of 1949, and after overruling a point of order that certain provisions exceeded the jurisdiction of the Committee on Banking and Currency because they constituted appropriations, Chairman Hale Boggs, of Louisiana, declined to rule on an issue which had not been presented in the point of order.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, the point of order I make is that subparagraphs (e) and (f) of section 102 in title I constitute the appropriation of funds from the Federal Treasury, and that the Committee on Banking and Currency is without jurisdiction to report a bill carrying appropriations under clause 4, rule 21, which says that no bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations.

This is no casual point of order made as a tactical maneuver in consideration of the bill. I make this point of order because this proposes to expand and develop a device or mechanism for getting funds out of the Federal Treasury in an unprecedented degree.

The Constitution has said that no money shall be drawn from the Treasury but in consequence of appropriations made by law. It must follow that the mechanism which gets the money out of the Treasury is an appropriation. . . .

This proposal will give to the Committee on Banking and Currency, if it should be permitted, authority which the Committee on Appropriations does not have, for in the reporting of an appropriation bill for a fiscal year, any appropriation beyond the fiscal year would be held out of order. Here this committee is reporting a bill which proposes to make mandatory extractions from the Treasury during a period of 4 years. . . .

MR. [JOHN W.] MCCORMACK [of Massachusetts]: . . . The provision in paragraph (f) that my friend has raised a point of order against relates entirely to loans. As we read section 102 of title I it starts out with loans. Throughout the bill, a number of times, there is reference to loans.

Paragraph (e) says:

> To obtain funds for loans under this title. . . .

I respectfully submit that it must call for an appropriation out of the general funds of the Treasury in order to violate the rules of the House. This permits the use of money raised by the sale of bonds under the Second Liberty Bond Act for loans to these public agencies, such loans to be repaid with interest.

I respectfully submit, complimenting my friend for having raised the point of order—and certainly, it is not a dilatory one, nor a casual one, one that demands respect—that the point of order does not lie against the language contained in the pending bill. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair agrees with the gentleman from South Dakota that the point which has been raised is not a casual point of order. As a matter of fact, as far as the Chair has been able to ascertain, this is the first time a point of order has been raised on this

issue as violative of clause 4 of rule XXI.

As the Chair sees the point of order, the issue involved turns on the meaning of the word "appropriation." "Appropriation," in its usual and customary interpretation, means taking money out of the Treasury by appropriate legislative language for the support of the general functions of Government. The language before us does not do that. This language authorizes the Secretary of the Treasury to use proceeds of public-debt issues for the purpose of making loans. Under the language, the Treasury of the United States makes advances which will be repaid in full with interest over a period of years without cost to the taxpayers.

Therefore, the Chair rules that this language does not constitute an appropriation, and overrules the point of order.

MR. CASE of South Dakota: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. CASE of South Dakota: Would the Chair hold then that that language restricts the Secretary of the Treasury to using the proceeds of the securities issued under the second Liberty Bond Act and prevents him from using the proceeds from miscellaneous receipts or tax revenues?

THE CHAIRMAN: The Chair does not have authority to draw that distinction. The Chair is passing on the particular point which has been raised.

MR. CASE of South Dakota: However, Mr. Chairman, it would seem implicit in the ruling of the Chair and I thought perhaps it could be decided as a part of the parliamentary history. It might help some courts later on.

THE CHAIRMAN: The Chair can make a distinction between the general funds of the Treasury and money raised for a specific purpose by the issuance of securities. That is the point involved here.

Rulings to Follow Precedents

§ 6.2 The Chairman follows the precedents of the House in making decisions on points of order.

On July 28, 1959,[17] during consideration of a point of order that an amendment to H.R. 8385, making appropriations for the mutual security program, was legislative in intent, Chairman Wilbur D. Mills, of Arkansas, changed his opinion after being made aware of a precedent in which a point of order to a similar amendment was overruled.

MR. [JOHN V.] DOWDY [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Dowdy: On page 5, after line 21, add a new section as follows: "No part of any appropriation contained in this Act shall be expended, in the event any such expenditure will increase, directly or indirectly, the public debt of the United States of America."

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, I reserve a point of order.

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17. 105 CONG. REC. 14521, 14522, 86th Cong. 1st Sess.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN: The gentleman will state the point of order.

MR. TABER: Mr. Chairman, it creates additional duties and changes existing law.

THE CHAIRMAN: The Chair will hear the gentleman from Texas on the point of order.

MR. DOWDY: Mr. Chairman, the amendment I have offered puts a limitation on an appropriation. I offered the same amendment in previous years and it has been held not to be legislation upon an appropriation bill. The fact of the matter is it follows in words section 102 of the present bill.

THE CHAIRMAN: The gentleman from Texas offers an amendment to which the gentleman from New York makes a point of order on the ground that the amendment is legislation on an appropriation bill, therefore not germane to the bill before the Committee. Though the amendment appears to be in the form of a simple limitation on an appropriation bill, the Chair is of the opinion that the amendment itself will place additional duties and responsibilities and functions on someone perhaps in the executive department or in the Congress.

MR. DOWDY: Mr. Chairman, in a previous year that very amendment has been ruled on to the contrary by the Chair.

THE CHAIRMAN: If the gentleman would cite the decision, the Chair would be glad to have it.

MR. DOWDY: I think it was 2 or 3 years ago on this bill. I do not have the decision.

THE CHAIRMAN: The present occupant of the chair does not recall it. In view of the gentleman's statement, the Chair is constrained to withhold his final decision until he can look into the matter. . . .

THE CHAIRMAN: The time of the gentleman from Texas has expired.

The Chair is now prepared to rule on the point of order.

The Chair appreciates the fact that the gentleman from Texas called the attention of the present occupant of the chair to the amendment offered in connection with the appropriation bill for mutual security in 1955. The gentleman from Texas at that time offered an amendment which is not identical with the amendment he offered today, although apparently the purpose of the amendment offered then and that of the amendment offered today are the same. The language varies slightly.

The Chairman of the Committee of the Whole, on that occasion, the gentleman from Pennsylvania [Mr. Walter], held that the amendment offered then in 1955 was merely a limitation. The present occupant of the chair feels constrained to follow the precedent pointed out by the gentleman from Texas and therefore overrules the point of order.

The question is on the amendment offered by the gentleman from Texas [Mr. Dowdy].

Clarification of Earlier Ruling

§ 6.3 After the Committee of the Whole had agreed that debate on an amendment be limited to five minutes and the Chair had misinterpreted

the agreement as limiting debate on the amendment and all amendments thereto, the Chair later the same day apologized to the Committee and to a Member who had been denied the privilege of debate on his amendment to the amendment because of this misinterpretation.

On May 3, 1946,[18] during consideration of H.R. 6056, the 1947 appropriation bill for the Departments of State, Justice, Commerce, and the Judiciary, Chairman Wilbur D. Mills, of Arkansas, apologized for denying Mr. John M. Vorys, of Ohio, the privilege of debate on his amendment to an amendment. The apology was made because the Chairman misinterpreted a unanimous-consent request made by Mr. Louis C. Rabaut, of Michigan, that "all debate on the pending amendment," which had been offered by Mr. Vorys, "close in 5 minutes." Although the unanimous-consent agreement would have barred Mr. Vorys from debating his original amendment because the five minutes had expired at the time he rose to speak, it should not have been applied in this instance because Mr. Vorys rose to speak not on the "pending amendment" but rather on a new amendment which he sought to offer to the pending amendment.[19]

MR. RABAUT: Mr. Chairman, I ask unanimous consent that all debate on the pending amendment close in 5 minutes.

THE CHAIRMAN: Is there objection to the request of the gentleman from Michigan?

There was no objection.

MR. RABAUT: Mr. Chairman, I ask unanimous consent that the amendment offered by the gentleman from Ohio [Mr. Vorys] be read again for the information of the Committee.

THE CHAIRMAN: Is there objection to the request of the gentleman from Michigan?

MR. [JOHN] TABER [of New York]: Mr. Chairman, reserving the right to object, I think we ought to have a little more time.

THE CHAIRMAN: Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk reread the pending Vorys amendment.

MR. RABAUT: Mr. Chairman, the gentleman from Ohio has submitted a very complicated amendment. But the meaning of the amendment is very simple. . . .

THE CHAIRMAN: The time of the gentleman from Michigan has expired. All time has expired. . . .

18. 92 CONG. REC. 4404–06, 4418, 79th Cong. 2d Sess.

19. *Parliamentarian's Note:* If no objection is raised, a proponent of an amendment may amend his own amendment. 116 CONG. REC. 19754, 91st Cong. 2d Sess., June 15, 1970. See Ch. 27, infra.

MR. RABAUT: I ask for a vote on the amendment, Mr. Chairman.

THE CHAIRMAN: The question recurs on the amendment.

MR. VORYS of Ohio: Mr. Chairman, I have an amendment, which I send to the Clerk's desk.

THE CHAIRMAN: Is it an amendment to the pending amendment?

MR. VORYS of Ohio: Yes, Mr. Chairman.

THE CHAIRMAN: The Clerk will report the amendment.

MR. RABAUT: A parliamentary inquiry, Mr. Chairman.

THE CHAIRMAN: The gentleman will state it.

MR. RABAUT: On what ground is this amendment considered?

THE CHAIRMAN: The gentleman from Ohio has offered an amendment to his amendment.

MR. RABAUT: But debate has been closed and the gentleman cannot be recognized for debate.

THE CHAIRMAN: The Chair does not recognize the gentleman for debate.

MR. VORYS of Ohio: Mr. Chairman, no debate could possibly have been closed on this amendment which was not offered.

THE CHAIRMAN: The gentleman from Michigan's unanimous-consent request was that all debate close within 5 minutes on the pending amendment and all amendments thereto.

MR. VORYS of Ohio: No, Mr. Chairman.

THE CHAIRMAN: The Clerk will report the amendment offered by the gentleman from Ohio to his amendment.

The Clerk read as follows:

> Amendment offered by Mr. Vorys of Ohio to the amendment offered by Mr. Vorys of Ohio: After the words "September 1, 1946," insert "not specifically authorized by act of Congress."

THE CHAIRMAN: The question recurs on the amendment to the amendment.

MR. TABER: Mr. Chairman, I offer a preferential motion.

THE CHAIRMAN: The Clerk will report the preferential motion.

The Clerk read as follows:

> Amendment offered by Mr. Taber: Mr. Taber moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

After debate, the motion of Mr. Taber was rejected by voice vote. The amendment of Mr. Vorys to the amendment of Mr. Vorys was rejected on a teller vote of ayes 88, noes 106.

THE CHAIRMAN: The Chair desires to make a statement.

Earlier today, immediately upon the House resolving itself into the Committee of the Whole House on the State of the Union for the consideration of the present bill, H.R. 6065, the chairman of the subcommittee handling the bill propounded a unanimous-consent request which the Chair endeavored to understand. The Chair, in attempting to understand the unanimous-consent request, failed, however, to understand that request as it was transcribed by the official reporter. The Chair has before him the transcript of the record as taken by the official reporter, of the request made by the gen-

tleman from Michigan. The request of the gentleman from Michigan was that all debate on the pending amendment close in 5 minutes. The Chair misunderstood the gentleman so that when the gentleman from Ohio [Mr. Vorys] offered an amendment to his amendment, the gentleman from Ohio, instead of being recognized for the 5 minutes to which he was entitled, was barred by the Chair from speaking in support of his amendment to the amendment.

The Chair wishes to apologize to the Committee and to the gentleman from Ohio [Mr. Vorys] for making a most unintentional misinterpretation of the request of the gentleman from Michigan. The Chair trusts the apology of the Chair may be accepted both by the gentleman from Ohio and the Committee.

Interruption of Debate by Chair

§ 6.4 The Chair may interrupt a Member of the House in debate when the Member proposes to read the opinions or statements of a Member of the Senate.

On May 25, 1937,[20] during consideration of House Joint Resolution 361, a relief appropriation, Chairman John J. O'Connor, of New York, interrupted a Member who sought to read a letter from a Member of the other body.

MR. [ALFRED F.] BEITER [of New York]: . . . Mr. Chairman, I have letters here from Members of the Senate saying they are in sympathy with this movement. If you will permit me, I will read a letter from Senator Murray, in which he says—

THE CHAIRMAN: The Chair, on its own responsibility, makes the point of order against the reading of a letter from a Member of another body.[21]

Expression of Appreciation to Chairman

§ 6.5 The House leaders expressed their appreciation for the dignity and fairness of the Chairman of the Committee of the Whole in presiding over debate on an appropriation bill.

On May 10, 1950,[22] House leaders from both parties expressed their appreciation for the manner in which the Chairman,

20. 81 CONG. REC. 5013, 75th Cong. 1st Sess.

21. *Parliamentarian's Note:* Jefferson's Manual provides: "It is a breach of order in debate to notice what has been said on the same subject in the other House. . . . Therefore it is the duty of the House, and more particularly the Speaker, to interfere immediately, and not to permit expressions to go unnoticed which may give a ground of complaint to the other House. . . ." *House Rules and Manual* §§ 371–374 (1979). See also Ch. 29, § 44, infra.

22. 96 CONG. REC. 6841, 6842, 81st Cong. 2d Sess. The proceedings described are illustrative of courtesies frequently expressed in the House of Representatives.

Jere Cooper, of Tennessee, presided over Committee of the Whole in the consideration of H.R. 7786, the first general appropriation bill, 1951.

MR. [J. PERCY] PRIEST [of Tennessee]: Mr. Chairman, I move to strike out the last word.

Mr. Chairman, within a very few minutes the Committee of the Whole House on the State of the Union will rise and report this omnibus appropriation bill back to the House. The House of Representatives, Mr. Chairman, always appreciates a job well done, and when that job happens to be a difficult and a tedious and a tiring job, the measure of appreciation is all the greater.

I take the floor at the close of this debate to express a very sincere appreciation for the magnificent job done by my distinguished colleague the gentleman from Tennessee [Mr. Cooper] in presiding over this bill in Committee.

I am sure that my sentiments in this respect are shared by every Member of this House on both sides of the aisle.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Chairman, will the gentleman yield?

MR. PRIEST: I yield to the gentleman from Massachusetts.

MR. MARTIN of Massachusetts: I want to join, in behalf of the Republican Members of this House, in this commendation of our very able Chairman who has conducted himself with great dignity and fairness. We, on this side, appreciate him as we always have.

MR. PRIEST: I thank the gentleman.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, will the gentleman yield?

MR. PRIEST: I yield to the gentleman from Massachusetts.

MR. MCCORMACK: We are all proud of Jere Cooper, not only as a Member of the House, but for the outstanding and the fine manner in which he always has presided over any bill that he has been designated as Chairman of the Committee of the Whole House. I have served with my friend for many years. The people of his district and of his State can well be proud of their Jere Cooper.

MR. PRIEST: I thank the majority leader.

Mr. Chairman, for more than a month this bill has been before the House. Day after day since about April 3 the distinguished gentleman from Tennessee has demonstrated every hour of every day those qualities of patience and fairness and justice that mark him as a great presiding officer.

In addition to his arduous duties of presiding during consideration of this bill, he has carried his part of the load during all of that time as the ranking majority member of the Committee on Ways and Means as it seeks to write a new tax bill.

THE CHAIRMAN: The Chair appreciates the very kind references.

MR. [CLARENCE] CANNON [of Missouri]: Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

§ 7.—Limitations on the Chairman's Jurisdiction

The jurisdiction of the Chairman of the Committee of the