

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

Whole is not unlimited; certain determinations are reserved to the Speaker, the House, or the Committee itself. Thus, the Committee of the Whole, not the Chairman, determines whether language in a committee report is binding,⁽¹⁾ and the Speaker responds to inquiries regarding whether a time limitation may be rescinded⁽²⁾ or whether a two-thirds vote is required in the House.⁽³⁾ The House determines the constitutionality of proposed legislation,⁽⁴⁾ the sufficiency or legal effect of committee reports,⁽⁵⁾ and whether the Committee of the Whole may sit in executive session.⁽⁶⁾

Constitutional Questions

§ 7.1 The Chairman does not pass on questions of constitutionality.

On Mar. 11, 1958,⁽⁷⁾ during consideration of S. 497, authorizing the construction, repair, and preservation of certain public works on rivers and harbors for naviga-

1. § 7.16, *infra*.
2. § 7.12, *infra*.
3. § 7.13, *infra*.
4. § 7.2, *infra*.
5. § 7.17, *infra*.
6. § 7.18, *infra*.
7. 104 CONG. REC. 4020, 85th Cong. 2d Sess.

tion, Chairman Howard W. Smith, of Virginia, referred to the power of the Chair to rule on constitutional questions.⁽⁸⁾

MR. [DONALD E.] TEWES [OF WISCONSIN]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Tewes: On page 57, immediately after line 22, insert the following:

“Sec. 211. For the purpose of disapproval by the President, each paragraph of each of the preceding sections, shall be considered a bill within the meaning of article I, section 7, of the Constitution of the United States, and each such paragraph which is disapproved shall not become law unless repassed in accordance with the provisions of section 7, article I, of the Constitution relating to the repassage of a bill disapproved by the President.”

And renumber the following section accordingly.

MR. [FRANK E.] SMITH of Mississippi: Mr. Chairman, I make a point of order against the amendment on the ground that such language is entirely out of order on any type of legislation. We do not have a provision in our Constitution for an item veto.

MR. TEWES: Mr. Chairman, I do not think that constitutional provisions are involved.

8. See also 112 CONG. REC. 25677, 89th Cong. 2d Sess., Oct. 7, 1966, in which Chairman Charles M. Price (Ill.), stated that the Chair does not pass on constitutional questions; and see 94 CONG. REC. 5817, 80th Cong. 2d Sess., May 13, 1948, for another illustration of this principle.

THE CHAIRMAN: The Chair is ready to rule. The Chair does not pass upon constitutional questions. The amendment seems to be pertinent to the bill and relates to the bill. Therefore, the Chair overrules the point of order.

§ 7.2 The question of the constitutionality of proposed legislation is a matter for the House, and not the Chairman, to decide.

On May 10, 1973,⁽⁹⁾ during consideration of an amendment to H.R. 7447, Chairman Jack B. Brooks, of Texas, ruled on the authority to decide constitutional questions.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Chairman, I have a point of order against the language beginning at page 6, line 10 through line 12.

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

MR. YATES: Mr. Chairman. I make a point of order against the language set forth in lines 10, 11, and 12, on page 6.

Article I, section 8, of the Constitution of the United States says:

The Congress shall have the power to declare war.

Congress has not declared war against Cambodia or Laos or against any other country in Southeast Asia for that matter. Congress has not given the President any authority to use the American Armed Forces in Cambodia and Laos. Nevertheless, on

order of President Nixon, American military planes are bombing in both those countries. The appropriation contained in the transfer authority includes funds to continue the bombing of Cambodia and Laos. That appears in the report of the committee and in the testimony of the committee. This has been conceded by witnesses appearing before the committee, and Secretary of Defense Richardson again stated to the press yesterday that whether or not Congress approves the transfer authority, the bombing would continue. . . .

I am asking the Chair for its ruling on two points. One, I ask the Chair to rule with respect to military appropriations which provide funds for American Armed Forces to engage in war under rule XXI, section 2, of the Rules of Procedure of the House of Representatives, which states there must be, as well as any other legislation authorizing such action, compliance with article I, section 8, of the U.S. Constitution, which requires the approval of the Congress for American Armed Forces to engage in that war. . . .

THE CHAIRMAN: Before the Chair will rule on this he will ask the Clerk to read the section on which the point of order was raised. The paragraph beginning on line 9.

The Clerk read as follows:

Section 735 of the Department of Defense Appropriation Act, 1973, is amended by deleting "\$750,000,000" and inserting "\$1,180,000,000" in lieu thereof. . . .

The Chair is ready to rule.

The Chair has read the resolution, and the resolution adopted by the House under which this legislation is being considered says that—

9. 119 CONG. REC. 15290, 15291, 93d Cong. 1st Sess.

All points of order against said bill for failure to comply with the provisions of clause 2 and clause 5 of rule XXI are hereby waived.

Under clause 2, which the Chair has read, the pending paragraph would be subject to a point of order, as legislation, were it not for this rule.

The Chair is not in a position, nor is it proper for the Chair to rule on the constitutionality of the language, or on the constitutionality or other effect of the action of the House in adopting the resolution of the Committee on Rules. In the head notes in the precedents of the House it very clearly states that it is not the duty of a chairman to construe the Constitution as it may affect proposed legislation, or to interpret the legality or effect of language; and the Chair therefore overrules the point of order raised by the gentleman from Illinois (Mr. Yates).

§ 7.3 It is the duty of the Chairman to determine whether the provisions in a pending bill conform to the rules of the House, but the Chair will not construe the constitutional validity of those provisions.

On May 10, 1973,⁽¹⁰⁾ during consideration of an amendment to H.R. 7447, supplemental appropriations for fiscal year 1973, Chairman Jack B. Brooks, of Texas, determined that the amendment conformed to the

10. 119 CONG. REC. 15290, 15291, 93d Cong. 1st Sess.

House rules, but declined to construe the constitutional validity thereof.⁽¹¹⁾

Merits of Proposed Legislation

§ 7.4 It is not the function of the Chair to pass upon the merits of a proposed amendment or bill.

On May 19, 1948,⁽¹²⁾ during consideration of H.R. 5852, regarding control of subversive activities, Chairman James W. Wadsworth, Jr., of New York, stated that the Chairman in ruling on a point of order does not pass on the merits of proposed legislation.

MR. [SAM] HOBBS [of Alabama]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Hobbs. . . .

"Sec. 20. (a) That the deportation of aliens provided for in this act and all other immigration laws of the United States shall be directed by the Attorney General, within his discretion and without priority of preference because of their order as herein set forth, either to the country from which such alien last entered the United States; or to the country in which is located the foreign port at which such alien embarked for the United States"

MR. [KARL [E.] [MUNDT] of South Dakota]: Mr. Chairman, I make the

11. See §7.2, *supra*, for the relevant debate on May 10.

12. 94 CONG. REC. 6139, 6140, 80th Cong. 2d Sess.

point of order against the amendment that it is not germane to the pending bill, H.R. 5852. It seems to me the gentleman's amendment, which I believe is in actuality a bill which is before the House and before another committee, deals with the arrangements and techniques of deportation proceedings, which do not properly fall within the province of the House Committee on Un-American Activities, so in my opinion the amendment should not be attached with germaneness to legislation of this type. Regardless of the merits of Mr. Hobbs' proposal, I submit it should come before us as a separate measure and not be added as overburden to H.R. 5852.

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

MR. HOBBS: I certainly do, Mr. Chairman.

THE CHAIRMAN: The Chair will hear the gentleman.

MR. HOBBS: Mr. Chairman, the amended title of this bill is "A bill to protect the United States against un-American and subversive activities." That is the declared purpose of the bill. In the subcommittee's report on the legislation we have been considering it is stated:

The subcommittee recommends the immediate consideration by the Judiciary Committee of the House of proposals which would require all aliens to register annually with the Department of Justice, allow the Department of Justice to hold deportable aliens in custody until arrangements for their deportation can be concluded, and provide for strict reciprocity in the granting of visas and in the treatment of aliens from Communist-dominated countries.

I submit, Mr. Chairman, in all earnestness and candor, that when you are dealing with a problem that goes to un-American and subversive activities you cannot find any activity that is more important to prevent the poisoning of the body politic of this Nation than the one to which my amendment addresses itself. It has already been considered by the Judiciary Committee of the House, it has already been granted a rule by the Rules Committee, and it has already passed this House. In substance it is identical with H.R. 5643 of the Seventy-sixth Congress, that did pass this House. It is no fault of ours that it is not the law of the land today. . . .

THE CHAIRMAN: The Chair is ready to rule.

The Chair would remind the gentleman from Alabama, of course, that his function is not to pass upon the merits of an amendment nor to pass upon the merits of the bill which the gentleman says has already passed the House. The Chair may personally find himself in complete agreement with the objective sought by the legislation which the gentleman from Alabama espouses, but the legislation to which he refers, as the Chair understands, has to do with the immigration and naturalization laws of the United States. This bill pending before the Committee of the Whole does not approach that subject. Its title is "Subversive Activities Control Bill, 1948." It comes from the Committee on Un-American Activities. That committee has no jurisdiction over legislation having to do with immigration and naturalization laws. Therefore, the Chair holds that the amendment is not germane.

MR. HOBBS: Mr. Chairman, may I call the attention of the Chair to the

fact that it deals with the question of the issuance of passports and prohibits such issuance.

The Chairman: The proposal of the gentleman goes far beyond that. The point of order is sustained.

Consistency of Proposal With Existing Law

§ 7.5 It is not within the province of the Chairman to interpret the consistency of a provision in a legislative bill with the provisions of existing law.

On June 7, 1973,⁽¹³⁾ during consideration of H.R. 7645, to authorize appropriations for the Department of State, Chairman Robert C. Eckhardt, of Texas, ruled on the scope of the Chair's authority to interpret a proposed bill.

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

THE CHAIRMAN: The gentleman will state it.

MR. GROSS: Mr. Chairman, I make a point of order against the language to be found on page 2, paragraph 2, lines 16 and 17, as being in violation of the law and therefore not authorized.

Mr. Chairman, section 286(c), title 22, United States Code, which is derived from section 5 of the Bretton Woods Agreement Act, provides as follows:

Unless Congress by law authorizes such action neither the President nor

any person or agency shall on behalf of the United States propose or agree to any change in the par value of the United States dollar.

Mr. Chairman, I repeat "propose or agree to any change." Mr. Chairman, reading from the report accompanying this bill on page 6:

Paragraph (2) authorizes an appropriation not to exceed \$12,307,000 to offset increased costs abroad resulting from the dollar devaluation . . .

Mr. Chairman, I ask that my point of order be sustained on the ground that the purpose of this specific authorization is the result of a change in the par value of the dollar which has not been validated.

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

MR. [WAYNE L.] HAYS [of Ohio]: I do.

Mr. Chairman, I recall a previous ruling in which the Chair at one time ruled that the question of the constitutionality did not have any bearing on the point of order if the language were properly included in the bill and were not on an amendment subject to a point of order.

This is an amount of money put in at the request of the State Department. It has nothing to do with any possible action by the Banking and Currency Committee one way or the other.

Whether we like it or not, whether there has been any congressional action or not, in order to carry on the normal operations at the present time, it is going to require \$12 million more to purchase the foreign currency necessary than it would have.

This is not a devaluation by an act of Congress. This is a pragmatic recogni-

13. 119 CONG. REC. 18502, 18503, 93d Cong. 1st Sess.

tion of the loss of value of the dollar. And when the State Department buys foreign currency with which to pay its bills, it has to pay this much additional. By the time this becomes enacted into law, if the present policies continue, it may cost a great deal more than this.

So, it has nothing to do with any action of Congress or any law.

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

I point out to the Chair that no legislation has been approved by Congress and signed by the President changing the par value of the dollar.

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

The action of the Congress and the President has nothing to do with the purchase of foreign currency. When we go to buy it, we do not set the rate of exchange. The President of the United States and the Secretary of the Treasury have allowed the dollar to float, and it did not float; it sunk.

Therefore, this is a pragmatic situation. We have to pay what the market price is. Under a float, there is no fixed currency exchange rate. This has nothing to do in any way with any action of Congress.

THE CHAIRMAN: The Chair is ready to rule.

The bill provides an authorization for an appropriation for expenses of the Department of State overseas. The expenditures are merely referred to as resulting from the devaluation of the dollar and do not bring about that devaluation. The language in the bill simply authorizes expenses of the Department of State, and is in order in bill of this type.

All the Chair can do is interpret the rules of the House. There is no rule of the House called in controversy here.

The Chair overrules the point of order.

Hypothetical Questions

§ 7.6 The Chairman does not rule on hypothetical questions.

On Mar. 19, 1952,⁽¹⁴⁾ after Chairman Wilbur D. Mills, of Arkansas, sustained a point of order raised by Mr. Clarence Cannon, of Missouri, to an amendment offered by Mr. Thomas A. Pickett, of Texas, Mr. John Phillips, of California, propounded a parliamentary inquiry as to whether the amendment would have been in order if the factual situation had been slightly different. The Chair refused to pass judgment on the hypothetical case. The proceedings were as follows:

MR. PICKETT: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Pickett: On page 3, after line 14, insert a new heading and the following language:

“DISASTER RELIEF

“The unobligated balances at the end of June 30, 1952, of appropria-

14. 98 CONG. REC. 2543, 82d Cong. 2d Sess. Under consideration was H.R. 7072, an independent executive offices appropriation bill for fiscal 1953.

tions heretofore made for Disaster Relief under the act of September 30, 1950 (Public Law 875); the Independent Offices Appropriation Act of 1952; act of July 18, 1951 (Public Law 80); and the act of October 24, 1951 (Public Law 202), shall, to the extent that they exceed in the aggregate \$5,000,000, not be available for obligation after June 30, 1952, and shall be recovered to the Treasury as miscellaneous receipts."

MR. CANNON: Mr. Chairman, I make the point of order, first, that the amendment is not germane to the bill. It has no relation to any item in the bill.

Second, it is legislation on an appropriation bill.

On both counts, or on either count, it is subject to a point of order.

THE CHAIRMAN: Does the gentleman from Texas [Mr. Pickett] desire to be heard on the point of order?

MR. PICKETT: Mr. Chairman, it occurs to me that this is a limitation of an appropriation. Its effect certainly is to recover into the Treasury moneys which are just floating around, and apparently serving no purpose at this time. It never occurred to me, of course notwithstanding whatever the rule might be, that we would avoid trying to save money here just by raising points of order. It seems to me that we might save a little money by even legislating some time. I hope the point of order will be overruled.

THE CHAIRMAN: The Chair is ready to rule. The gentleman from Texas [Mr. Pickett] has offered an amendment. The gentleman from Missouri [Mr. Cannon] makes a point of order against the amendment on the ground it is not germane to the bill before the Committee and that it is legislation on

an appropriation bill. The Chair has had an opportunity to read the amendment proposed by the gentleman from Texas. The amendment does not, as the Chair understands, apply to funds contained in the pending bill H.R. 7072, but has reference to funds which have been made available by the Congress in other legislation. Therefore, the amendment is not germane and is clearly legislation on an appropriation bill. The Chair is constrained to sustain the point of order.

MR. PHILLIPS: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. PHILLIPS: Mr. Chairman, would it have been in order if the gentleman from Texas made it a transfer of the funds to the Housing and Finance Agency, which comes on about page 53, and which already has a fund for distress purposes, and merely transfer this money to that fund? It would, therefore, be a limitation upon it.

THE CHAIRMAN: I am sure the gentleman from California will agree with the Chair when the Chair calls the gentleman's attention to the fact that the present occupant of the Chair has enough trouble without having to pass judgment on a hypothetical case.

MR. PICKETT: Mr. Chairman, if I might be heard further, I might say that if there is any possibility that the amendment is germane, it will be offered at that point.

§ 7.7 The Chairman does not respond to hypothetical questions even though raised under the guise of a parliamentary inquiry.

On Mar. 26, 1965,⁽¹⁵⁾ during consideration of H.R. 2362, the elementary and secondary education bill of 1965, Chairman Richard Bolling, of Missouri, declined to respond to a hypothetical question which had been raised as a parliamentary inquiry.

MR. [ALBERT H.] QUIE [of Minnesota]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. QUIE: Mr. Chairman, if I had risen to move to strike out the last word, rather than offering an amendment which would be voted on, then would the extra 5 minutes have been I divided equally?

THE CHAIRMAN: The Chair is not in position to answer that kind of question.

MR. QUIE: It may happen in the future as we go along with the debate.

THE CHAIRMAN: The Chair will meet the situation as it arises.

§ 7.8 The Chairman will not entertain as a parliamentary inquiry a hypothetical question regarding the effect which the defeat of a pending amendment would have on the propriety of another amendment which has not been offered.

On Nov. 30, 1971,⁽¹⁶⁾ during consideration of H.R. 11060, the

15. 111 CONG. REC. 6114, 89th Cong. 1st Sess.

16. 117 CONG. REC. 43377, 92d Cong. 1st Sess.

Federal Election Campaign Act of 1971, Chairman Richard Bolling, of Missouri, refused to give a specific answer to a question as to whether an amendment—not yet before the House—might be entertained after the defeat of the pending amendment.

MR. [FRANK E.] EVANS of Colorado: Mr. Chairman, I have asked the gentleman from Illinois to yield to me for the purpose of posing a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. EVANS of Colorado: In the event the amendment offered by the distinguished gentleman from Ohio (Mr. Hays) is defeated, will we then be in a position to entertain an amendment as described by the gentleman from Illinois (Mr. Anderson)?

THE CHAIRMAN: The Chair will reply to the gentleman from Colorado that the Chair cannot anticipate events precisely. If the amendment offered by the gentleman from Ohio (Mr. Hays) to this particular section is voted down, then another germane amendment to the particular area could be offered.

Anticipating House Action

§ 7.9 The Chairman of the Committee of the Whole does not predict what action may take place in the House after the Committee rises.

On Mar. 24, 1949,⁽¹⁾ during consideration of H.R. 2681, to provide

1. 95 CONG. REC. 3110–15, 81st Cong. 1st Sess.

pensions for veterans of World Wars I and II based on nonservice-connected disability and attained age, Chairman Albert A. Gore, of Tennessee, made reference to the power of the Chairman to anticipate House action following a rise of the Committee.

MR. [OLIN E.] TEAGUE [of Texas]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Teague 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.

MR. TEAGUE: Mr. Chairman, the purpose of this motion is not to kill the bill. The purpose of this motion is to bring it back before the House, at which time I will make a motion to recommit it to the Committee on Veterans' Affairs for further study. I think it is obvious from what has happened in the last 2 days that the bill deserves further study. . . .

MR. [GEORGE A.] SMATHERS [of Florida]: Mr. Chairman, is this not the parliamentary situation that if the motion is agreed to on this teller vote, then the Committee rises and a motion will be offered in the House to recommit the bill at which time there will be a yea-and-nay vote, the first recorded vote?

THE CHAIRMAN: As Chairman of the Committee of the Whole, the Chairman cannot construe what action may take place in the House. The Chairman can only report the action of the Com-

mittee of the Whole to the House when and if the Committee should rise.

§ 7.10 The Chairman of the Committee of the Whole does not rule on procedural questions that may be directed to the Speaker when a bill is reported back to the House.

On Oct. 8, 1969,⁽²⁾ during consideration of amendments to H.R. 14159, the public works appropriation measure for fiscal year 1970, Chairman Wayne N. Aspinall, of Colorado, declined to rule on whether an amendment to the bill would be permissible in the House.

THE CHAIRMAN: . . . For what purpose does the gentleman from Michigan (Mr. O'Hara) rise?

MR. [JAMES G.] O'HARA: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. O'HARA: Would it be possible to offer an amendment to the language on page 14, lines 15 through 17, in the House after the Committee rises?

THE CHAIRMAN: That request would have to be taken care of at the time a motion ordering the previous question is made.

MR. O'HARA: But if the previous question were not ordered, the amendment would then be in order?

THE CHAIRMAN: That question would be determined by the Speaker of the House.

2. 115 CONG. REC. 29219, 29220, 91st Cong. 1st Sess.

§ 7.11 The Chairman of the Committee of the Whole does not anticipate or suggest what parliamentary decisions may be rendered in the House by the Speaker.

On May 18, 1966,⁽³⁾ during consideration of H.R. 14544, the Participation Sales Act of 1966, Chairman Eugene J. Keogh, of New York, refused to anticipate decisions that the Speaker might render.

MR. [CHARLES R.] JONAS [of North Carolina]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. JONAS: In case the bill agreed on in the conference should delete this amending language, and the bill which came back to the House contained the objectionable language, against which the point of order was lodged, could a point of order be made against the conference report to strike that language?

THE CHAIRMAN: The present occupant of the chair would not assume to undertake to suggest what would be done by the Speaker in that event.

MR. JONAS: That would be a matter for the Speaker to decide.

THE CHAIRMAN: The gentleman is correct.

Rescinding Time Limitation

§ 7.12 Whether the House can rescind a time limitation im-

3. 112 CONG. REC. 10895, 89th Cong. 2d Sess.

posed by the Committee of the Whole is a matter for the Speaker, and not the Chairman, to determine.

On Dec. 14, 1973,⁽⁴⁾ during consideration of H.R. 11450, the Emergency Energy Act, Chairman Richard Bolling, of Missouri, declined to answer an inquiry regarding an extension of time for consideration of the bill on the ground that such an inquiry should be addressed to the Speaker.

MR. [JOHN H.] BUCHANAN [Jr., of Alabama]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. BUCHANAN: Mr. Chairman, should a motion be offered that the Committee do now rise, and that motion would be accepted by the Committee, would it be possible then in the House for time to be extended or for the earlier motion limiting time to be rescinded?

THE CHAIRMAN: The Chair will state to the gentleman from Alabama that the gentleman is asking the Chairman of the Committee of the Whole to rule on a matter that would come before the Speaker of the House of Representatives.

MR. BUCHANAN: The Chairman cannot answer that according to the rules of the House?

THE CHAIRMAN: The Chair will state that the Chair is not in a position to answer for the Speaker.

4. 119 CONG. REC. 41731, 93d Cong. 1st Sess.

Vote Required in House

§ 7.13 The question of the vote required to adopt a resolution in the House is not properly addressed to the Chairman of the Committee of the Whole as a parliamentary inquiry but should be addressed to the Speaker in the House.

On June 13, 1946,⁽⁵⁾ during consideration of H.R. 6777, the government corporations appropriation bill, 1947, Chairman William M. Whittington, of Mississippi, declined to rule whether a two-thirds vote would be required in the House to adopt a special rule.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. CASE of South Dakota: Would it be possible to get a rule making in order a paragraph which had previously been stricken from the bill on a point of order, unless that rule was adopted by a two-thirds vote?

THE CHAIRMAN: The Chair may say to the gentleman that that inquiry is not one that can be answered in the Committee of the Whole. It is a matter that would have to be determined by the Speaker of the House.

5. 92 CONG. REC. 6877, 6878, 79th Cong. 2d Sess.

Time To Resume Unfinished Business

§ 7.14 The question as to when the Committee of the Whole will continue the consideration of a pending bill after rising for the day is for the Speaker and the House to decide and not the Chairman of the Committee of the Whole.

On Apr. 26, 1948,⁽⁶⁾ during consideration of H.R. 2245, to repeal the tax on oleomargarine, Chairman Leslie C. Arends, of Illinois, declined to rule on when the Committee would continue consideration of the bill after rising for the day.

MR. AUGUST H. ANDRESEN [of Minnesota]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. AUGUST H. ANDRESEN: Mr. Chairman, I understand that the Committee will rise at 4 o'clock. It is also my understanding of the rules that this Committee should meet tomorrow in order to have continuous consideration of the pending legislation.

I would like to have a ruling of the Chair as to whether or not the rules provide that a day may intervene so that this legislation may be taken up on Wednesday.

THE CHAIRMAN: The Chair may say that is a matter for the Speaker of the

6. 94 CONG. REC. 4873, 80th Cong. 2d Sess.

House and the House itself to determine. It is not something within the jurisdiction of the Chair to decide.

§ 7.15 A parliamentary inquiry as to whether a bill under consideration on Calendar Wednesday would be the unfinished business of the Committee of the Whole on the next day if the House adjourns is not a question for the Chairman to decide.

On Feb. 22, 1950, Calendar Wednesday,⁽⁷⁾ during consideration of H.R. 4453, the Federal Fair Employment Practice Act, Chairman Francis E. Walter, of Pennsylvania, declined to answer a parliamentary inquiry as to whether the bill would be the unfinished business of the Committee of the Whole on the next day if the House adjourned.

THE SPEAKER:⁽⁸⁾ The House automatically resolves itself into the Committee of the Whole House on the State of the Union. The gentleman from Pennsylvania [Mr. Walter] will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4453) to prohibit discrimination in employment because of race, color, religion, or national origin, with Mr. Walter in the chair.

7. 96 CONG. REC. 2161, 2162, 81st Cong. 2d Sess.

8. Sam Rayburn (Tex.).

The Clerk read the title of the bill.

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. FULTON: If the House were now to adjourn would the first order of business tomorrow be the consideration of this bill by the Committee of the Whole?

THE CHAIRMAN: The parliamentary inquiry is directed to a state of facts that does not exist. The House has resolved itself into the Committee of the Whole, and the Committee of the Whole cannot adjourn.

The Clerk will read the bill.

Sufficiency or Legal Effect of Committee Report

§ 7.16 The Chair does not pass on the legal effect of funding limitations included in a committee report on an appropriation bill but not written into the wording of the bill; that matter is decided by the Committee of the Whole in considering the bill for amendment.

On Apr. 14, 1955,⁽⁹⁾ during consideration of H.R. 5502, the Departments of State, Justice, Judiciary, and related agencies appropriations bill of 1956, Chairman Jere Cooper, of Tennessee, de-

9. 101 CONG. REC. 4463, 4464, 84th Cong. 1st Sess.

clined to respond to a parliamentary inquiry as to whether limitations appearing in a committee report but not in the bill are binding.

MR. [ROBERT C.] WILSON of California: I have a question relative to the United States Information Agency as it affects the report of the committee. As printed I notice there are several limitations written into the report. For instance, not to exceed \$300,000 is provided for the "presentation" program; not to exceed \$200,000 is provided for exhibits for which \$334,000 was requested, and other limitations of that type.

I am wondering if the fact that these limitations appear in the report make them actual limitations in law. I notice they are not mentioned in the bill itself, and I wonder if the committee regards them as binding on the agency, because there are many serious limitations, particularly in regard to exhibits, for example. I would just like to hear the opinion of the chairman.

MR. [John J.] ROONEY [of New York]: I may say to the gentleman from California that it is expected that they will be the law; and that they are binding. The fact that they have not been inserted in the bill is not important. They represent the considered judgment of the committee and we expect the language of the report to be followed.

MR. WILSON of California: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. WILSON of California: Are limitations written in a committee report

such as this, but not written into the wording of the legislation, binding?

THE CHAIRMAN: That is not a parliamentary inquiry. That is a matter to be settled by the members of the Committee of the Whole.

§ 7.17 The Chair does not rule on the sufficiency or legal effect of committee reports.

On Apr. 14, 1955,⁽¹⁰⁾ during consideration of H.R. 5502, the Departments of State, Justice, Judiciary, and related agencies appropriations bill of 1956, Chairman Jere Cooper, of Tennessee, stated that the Chair would not pass on the sufficiency of the committee report on the bill.

MR. [ROBERT C.] WILSON of California: I have a question relative to the United States Information Agency as it affects the report of the committee. As printed I notice there are several limitations written into the report. For instance, not to exceed \$300,000 is provided for the "presentation" program; not to exceed \$200,000 is provided for exhibits for which \$334,000 was requested, and other limitations of that type.

I am wondering if the fact that these limitations appear in the report make them actual limitations in law. I notice they are not mentioned in the bill itself, and I wonder if the committee regards them as binding on the agency, because there are many serious limitations, particularly in regard to exhib-

10. 101 CONG. REC. 4463, 4464, 84th Cong. 1st Sess.

its, for example. I would just like to hear the opinion of the Chairman. . . .

MR. WILSON of California: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it. . . .

MR. WILSON of California: I merely wanted [to ask about a report] for my own understanding and information, for I am fairly new here. It seems to me rather unusual to consider matter written into a report of the same binding effect on an administrator as though written into the law itself.

THE CHAIRMAN: It is not the prerogative of the Chair to pass upon the sufficiency or insufficiency of a committee report.

MR. WILSON of California: I am not really asking whether the report itself is sufficient or insufficient; I am asking whether the legislation we are voting on here is sufficient or insufficient.

The committee report on the appropriation bill now before the House includes recommendations on maximum amounts to be available to the USIA for certain specified functions. The recommendations appear to be intended as limitations. No comparable limitations are contained in the bill appropriating funds to USIA. . . .

Legislation can be enacted only by the joint action of the House and Senate and the President. Legislation cannot be unilaterally enacted by a committee of the Congress. Naturally the committee recommendations are to be given due weight by the executive agencies in the administration of the programs concerned. These recommendations are the result of the arduous labors of conscientious legisla-

tors. They are not to be lightly ignored or disregarded by the executive arm of the Government. They are not, however, legislative mandates having the force of law.

I am firmly of the above view and understand that my view is shared by the General Counsel of the General Accounting Office.

THE CHAIRMAN: The gentleman might address that inquiry to the chairman of the subcommittee.

MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, will the gentleman yield?

MR. [FREDERIC R.] COUDERT [Jr., of New York]: I yield.

MR. ROONEY: Let me say once again that the language in the report with regard to these limitations is a matter of custom which has been followed over many years, and it is expected that the USIA and the departments involved in this bill will strictly follow the language of the report unless the will of the House demonstrates otherwise by adopting amendments to the bill.

Sitting in Executive Session

§ 7.18 The House and not the Committee of the Whole decides whether the Committee may sit in executive session; a parliamentary inquiry of this sort should be addressed to the Speaker and not the Chairman of the Committee of the Whole.

On May 9, 1950,⁽¹¹⁾ during consideration of H.R. 7786, the gen-

11. 96 CONG. REC. 6746, 81st Cong. 2d Sess.

eral appropriations bill of 1951, Chairman Mike Mansfield, of Montana, stated that the House, not the Committee of the Whole, determines whether the Committee may sit in executive session, and he declined to respond to a parliamentary inquiry regarding that matter on the ground that such an inquiry should be addressed to the Speaker.

MR. [ERRETT P.] SCRIVNER [of Kansas]: Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I would submit a parliamentary inquiry as to whether or not an executive session could be held and, if so, what procedure would be necessary to bring that to pass before we are asked to vote upon the \$350,000,000 additional.

THE CHAIRMAN: The Chair will state to the gentleman from Kansas that the Committee of the Whole would have no control over that. That would be a matter for the House itself to decide.

MR. SCRIVNER: I understand that, of course, and raised the question for information of the Members. Since it is a matter for the House to determine, as a further parliamentary inquiry, what would be the method followed to take that action?

THE CHAIRMAN: The Chair will say to the gentleman from Kansas that a parliamentary inquiry of that sort should be addressed to the Speaker rather than the Chairman.

Interpretation of Senate Procedure

§ 7.19 The Chair does not interpret the rules or procedures of the Senate.

On June 6, 1961,⁽¹²⁾ during consideration of H.R. 7444, making appropriations for the Department of Agriculture for fiscal year 1962, the Chairman declined to interpret Senate rules or procedure.

MR. [WILLIAM H.] AVERY [of Kansas]: Mr. Chairman, may I submit another parliamentary inquiry?

THE CHAIRMAN:⁽¹³⁾ The gentleman will state it.

MR. AVERY: Mr. Chairman, the language of the amendment now pending at the desk is the identical language that came into conference from the other body following action of the House, and my amendment in 1959 became incorporated, I believe, in the conference report. Does that in any way change the legislative history of the amendment?

THE CHAIRMAN: The Chair may advise the gentleman that nothing is pending before the Chair, but by way of observation, the language the gentleman speaks of was apparently added by the other body. The present occupant of the Chair would not attempt to state or to interpret the rules or procedure of the other body.

MR. AVERY: I thank the Chairman.

§ 8.—Rulings Relating to Amendments

The Chairman of the Committee of the Whole is guided by the

12. 107 CONG. REC. 9626, 87th Cong. 1st Sess.

13. Paul J. Kilday (Tex.).