

point of order was sustained as indicated below:

THE CHAIRMAN:⁽²⁾ The Clerk will read.

The Clerk read as follows:

For necessary expenses, including services as authorized by 5 U.S.C. 3109 . . . not to exceed \$2,500 for official reception and representation expenses; and advances or reimbursements to applicable funds of the Commission and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; \$90,000,000 together with not to exceed \$18,698,000 for current fiscal year administrative expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Commission in amounts determined by the Commission without regard to other statutes: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds for administrative expenses of effecting statutory annuity adjustments. . . .

MR. [CHARLES A.] VANIK [of Ohio]: Mr. Chairman, I make a point of order on the language beginning at line 12 on page 12 of this bill with the figures "\$90,000,000" through line 20 ending in the word "adjustments." . . .

Mr. Chairman, it is my understanding that there is in fact no authorization for the President's Commission on Personnel Interchange for which \$353,000 is herein requested. It was created solely by Executive Order 11451 on January 19, 1969.

This House rule is supported in this regard by title 36 of the United States Code, section 673, which also indicates

2. B. F. Sisk (Calif.).

that no funds should be expended by this body without authorization. The full section of the law reads as follows:

TITLE 36, SECTION 673

No part of the public monies, or of any appropriation made by Congress, shall be used for the payment of compensation or expenses of any commission, council or other similar body, or any members thereof, or for expenses in connection with any work or the results of any work or action of commission, council, board, or similar body, unless the creation of the same shall be or shall have been authorized by law; nor shall there be employed any detail hereafter or heretofore made or otherwise personal services from any Executive Department or other Government establishment in connection with any such commission, council, board, or similar body. . . .

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

MR. [TOM] STEED [of Oklahoma]: Mr. Chairman, we concede the point of order.

THE CHAIRMAN: The gentleman from Oklahoma (Mr. Steed) concedes the point of order.

The point of order is sustained.

§ 17. Foreign Relations

Fishermen's Protective Act

§ 17.1 The Fishermen's Protective Act of 1957 was held sufficient authorization for an appropriation to compensate certain vessel owners whose vessels were seized by Ecuador.

On June 28, 1971,⁽³⁾ the Committee of the Whole was considering H.R. 9271, an appropriation bill for the Department of the Treasury, the Postal Service, the Executive Office, and independent agencies. The following proceedings took place:

Amendment offered by Mr. Dingell: On page 32, after line 19, insert:

“TITLE V—CLAIMS UNDER FISHERMEN’S PROTECTIVE ACT OF 1967

“Sec. 501. For payment of claims settled and determined in accord with the Fishermen’s Protective Act of 1967 (22 U.S.C. 1971 and fol.) for amounts paid to the Government of Ecuador and certified to the Secretary of the Treasury by the Secretary of State in respect of the *Ocean Queen* (certified April 23, 1971), the *Day Island* (certified May 10, 1971), the *Apollo* (certified May 4, 1971), the *John F. Kennedy* (certified May 4, 1971), the *Quo Vadis* (certified May 12, 1971), and the *Sun Europa* (certified May 3, 1971), \$387,190.” . . .

MR. [FRANK T.] BOW [of Ohio]: Mr. Chairman, I reserve a point of order against the amendment. . . .

THE CHAIRMAN:⁽⁴⁾ Does the gentleman from Ohio wish to be heard on his point of order?

MR. BOW: I do, Mr. Chairman, and I shall be very brief.

Mr. Chairman, there is no question but that the law does provide for the payment to these fishermen who have had their ships seized in Ecuador.

3. 117 CONG. REC. 22439–42, 92d Cong. 1st Sess.

4. John S. Monagan (Conn.).

But I call the attention of the Chair to what the gentleman from Michigan has said, which is quite correct, that the law has been amended—that is, the original law of 1926 has been amended—the law of 1927—to provide where there is a seizure of this kind that the payment shall be made from the withholding of foreign aid funds from the recipient country. The law so provides, and this has not been done. So the amendment of the law would provide the method of payment in those countries which receive foreign aid and Ecuador is one of them. So it would seem to me that at this time there is no authority for an appropriation, because the law provides that it shall be paid out of foreign aid funds and not by an appropriation here.

I point this out simply to call attention to what the distinguished gentleman from Michigan has stated, and I think he will agree that this is what the law is. . . .

THE CHAIRMAN: Does the gentleman from Michigan (Mr. Dingell) desire to be heard further on the point of order?

MR. [JOHN D.] DINGELL: Yes, Mr. Chairman. Mr. Chairman, I happen to have before me the two statutes which are relevant here and I will cite them to the Chair at this particular time.

The first is that the act of August 27, 1954, 68 Stat. 883–22 U.S. 3 71–76—the relevant part of that statute reads as follows—and this is section 2:

In any case where—

(a) a vessel of the United States is seized by a foreign country on the basis of rights or claims in territorial waters or the high seas which are not recognized by the United States; and

(b) there is no dispute of material facts with respect to the location or

activity of such vessel at the time of such seizure, the Secretary of State shall as soon as practicable take such action as he deems appropriate to attend to the welfare of such vessel and its crew while it is held by such country and to secure the release of such vessel and crew. . . .

[Subsequent language provides] that once the Secretary of State has certified the amounts paid to the Secretary of the Treasury . . . the Secretary of the Treasury shall procure an appropriation from the Congress and shall pay from appropriated funds the fine and other charges necessary.

Then subsequently, Mr. Chairman, in the statute of the 90th Congress, Public Law 90-482, dated August 12, 1968—and this appears at 75 Stat. 424, 22 U.S.C. 2151—we amended the statute then to add to the word “fine,” which the United States is supposed to compensate these fishermen for; in addition to that, license fee, registration fee, or any other direct charge, and the committee in this report interpreted this as being anything that is necessary to release the vessel from the holding of the foreign government—in each of these cases, I believe, the Government of Ecuador. I would be happy to read the statute further if the gentleman desires.

MR. BOW: Mr. Chairman, will the gentleman yield to permit me to read that part which says that the fine and charges shall be paid out of the foreign aid funds?

MR. DINGELL: There is such a statute, but I would tell my good friend from Ohio the statute to which he is now addressing himself is another statute which says that the Secretary of State shall withhold and shall compensate the

United States for the amounts paid out. We were very careful, I want my good friend from Ohio to know, in drafting the statute not to set it up so that the Secretary of State would have to withhold the fine from foreign aid funds so as to leave our fishermen naked and destitute. I do not believe the committee felt that we should trust the Secretary, making the commercial fishermen subject to that kind of whim or mercy. . . .

THE CHAIRMAN: The Chair is ready to rule.

Under section 1973 of the United States Code, title 22, there is an authorization, as the gentleman from Michigan has said, which does permit the payment of charges and authorizes these payments.

In spite of the fact that there is a reference in section 1975 to action by the Secretary of State, nevertheless the Chair does not find that the condition as contended for by the gentleman from Ohio is contained in this section. The Chair believes the law cited by the gentleman from Michigan would authorize the appropriation carried in the amendment. The Chair finds the point of order is not well taken and overrules the point of order.

International Organizations and Conferences

§ 17.2 An appropriation for “International Conferences and Contingencies” which included a provision earmarking a certain amount for a contribution to the International Secretariat on Middle Level Manpower was

held to be authorized by a law allowing the Secretary of State to generally participate in international activities in conducting foreign affairs.

On Apr. 10, 1963,⁽⁵⁾ the Committee of the Whole was considering H.R. 5517, a supplemental appropriation bill containing the following paragraph:

For an additional amount for "International conferences and contingencies," \$315,000, of which \$250,000 shall be available for expenses of organizing and holding the World Food Congress in the United States, as authorized by the act of October 18, 1962 (Public Law 87-841), and \$65,000 shall be available for the U.S. contribution to the International Secretariat on Middle Level Manpower.

MR. [GLENARD P.] LIPSCOMB [of California]: Mr. Chairman, I make a point of order against the language in the bill on page 23, lines 8 through 15, under the heading "International Conferences and Contingencies" on the ground that it is not authorized by law. The authorizations for appropriations for international conferences and contingencies under section 5 of Public Law 84-885 conveys authority for a general appropriation and not authority for a specific appropriation such as proposed under this section which provides that of the \$315,000 for "International conferences and contingencies," \$65,000 shall be available for the U.S. contributions to the International Secretariat on Middle Level Manpower.

5. 109 CONG. REC. 6157, 6158, 88th Cong. 1st Sess.

THE CHAIRMAN:⁽⁶⁾ Does the gentleman from New York desire to be heard on the point of order?

MR. [JOHN J.] ROONEY [of New York]: I do, Mr. Chairman.

Mr. Chairman, I respectfully submit that this appropriation is authorized by law. It is authorized by Public Law 885, 84th Congress, in section 5 of which we find the following:

The Secretary of State is authorized to (a) provide for participation by the United States in international activities which arise from time to time in the conduct of foreign affairs for which provision has not been made by the terms of any treaty, convention or special act of Congress. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The language cited by the gentleman from New York is, indeed, very broad. The Chair believes that the point of order is not well taken.

The point of order is overruled.

Authority to Join International Organization Implies Authority for Expenses

§ 17.3 An act authorizing the President to accept membership in an international organization was held to be sufficient authorization to support an appropriation for the obligation assumed by the United States in accepting such membership.

6. Richard Bolling (Mo.).

On Feb. 7, 1935,⁽⁷⁾ the following proceedings took place:

MR. [GEORGE H.] TINKHAM [of Massachusetts]: Mr. Chairman, in relation to the appropriation of \$174,630 for the International Labor Organization, I make the point of order that there is no legislative authority to support this appropriation and, Mr. Chairman, I make the further point of order that the appropriation in any event is limited to the terms of the instrument which sets up the International Labor Organization, namely title XIII of the Versailles Treaty. . . .

THE CHAIRMAN:⁽⁸⁾ The point of order raised by the gentleman from Massachusetts (Mr. Tinkham) involves the question as to the authorization of an appropriation under title I of the bill (H.R. 5255) granting to the International Labor Organization the sum of \$174,630.

In order that we may not be confused, the Chair feels it proper to state that the reference to the Versailles Treaty in regard to the legality of this appropriation, and the point of order raised thereon, is absolutely irrelevant. The Versailles Treaty is no part of the law of the United States of America, is not mentioned in the paragraph providing this appropriation, and is not referred to in the joint resolution passed in the Seventy-third Congress and approved June 19, 1934. The law under which this appropriation is proposed results from the joint resolution approved June 19, 1934, which provided that the President of the United

States was authorized to accept membership for the Government of the United States of America in the International Labor Organization which, through its general conference of representatives and its members and through its International Labor Office, collects information concerning labor throughout the world, and prepares international conventions for the consideration of member governments, with a view of improving conditions of labor. The Versailles Treaty and other matters of that kind are not referred to in that joint resolution.

The question, it seems to the Chair, resolves itself into whether or not a reasonable interpretation of the law passed during the Seventy-third Congress includes therein an authorization of the Congress of the United States, which enacted that legislation, to make reasonable appropriations to carry it into effect. Bearing on the generally recognized standard of interpretation of legislation of this kind, the Chair thinks that it is proper to refer to the language of the distinguished gentleman from Massachusetts [Mr. Tinkham] when this bill was under debate in this House on June 16, 1934, when he said:

Let me ask the chairman of the committee, on which I have the honor to serve, has there been an estimate of the cost to the American people of our annual contribution to this organization; if so, how much?

The gentleman from Tennessee [Mr. McReynolds] said:

That will depend on a number of circumstances.

Then the gentleman from Massachusetts made this remark:

Mr. Speaker, I may say that it is estimated that we shall contribute to

7. 79 CONG. REC. 1616, 1677-80, 74th Cong. 1st Sess.

8. William N. Rogers (N.H.).

the support of this organization from \$150,000 to \$400,000 a year.

At that time it seems to have been contemplated that a reasonable appropriation to be made by Congress was involved in the passage of that legislation. In view of that interpretation it seems to the Chair that the joint resolution approved June 19, 1934, is sufficient authorization for this appropriation, and the Chair is of the opinion that the point of order should be overruled. The Chair therefore overrules the point of order should be overruled.

The Chair therefore overrules the point of order.

***Foreign Currency Program—
Preservation of Nubian
Monuments***

§ 17.4 An appropriation added by the Senate to a general appropriation bill and included in a conference report, for the purchase of Egyptian pounds accruing under the Agricultural Trade Development and Assistance Act of 1954, to be used for the preservation of ancient Nubian monuments on the Nile was held to be authorized by a provision of the act allowing foreign currencies to be used “to promote and support programs of . . . cultural and educational development” and further specifying that “foreign currencies shall be available for

purposes of this subsection . . . only in such amounts as may be specified from time to time in appropriation acts.”

On the legislative day of Sept. 25, 1961,⁽⁹⁾ the House was considering a conference report on H.R. 9169, a supplemental appropriation. The following proceedings took place:

MR. [ALBERT] THOMAS (of Texas): Mr. Speaker, I call up the conference report on the bill (H.R. 9169) and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

THE SPEAKER PRO TEMPORE:⁽¹⁰⁾ Is there objection to the request of the gentleman from Texas?

MR. [JOHN] TABER [of New York]: Mr. Speaker, I object

The Clerk read the conference report.

MR. TABER: Mr. Speaker, I make a point of order against the conference report, and I refer especially to the paragraph on page 30, under the title of “Preservation of Ancient Nubian Monuments—Special Foreign Currency Program”. . .

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule.

The gentleman from New York makes a point of order against the conference report in connection with the

9. 107 CONG. REC. 21521, 21522, 87th Cong. 1st Sess., Sept. 27, 1961 (Calendar Day)

10. John W. McCormack (Mass.).

amendment on page 30, which reads as follows:

For the purchase of Egyptian pounds which accrue under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, for the purposes authorized by section 104(k) of that Act, \$4 million to remain available until expended

The Chair has carefully studied the provisions of section 104(k), the organic law, which include among other things:

To promote and support programs of medical and scientific research, cultural and educational development, health, nutrition, and sanitation: *Provided*, That foreign currencies shall be available for the purpose of this subsection (in addition to funds otherwise made available for such purposes) only in such amounts as may be specified from time to time in appropriation acts. . .

Continuing what the Chair has said, it is the opinion of the Chair that section 104(k) justifies the language contained in the conference report, and the Chair overrules the point of order.

Foreign Currencies for Children's Hospital in Poland

§ 17.5 In a bill appropriating funds for the mutual security program, a provision earmarking a part of the funds of the "special assistance" appropriation for the purchase of foreign currencies to be used for the construction of a children's hospital

in Poland was held to be authorized by a provision in the 1954 Mutual Security Act.

On June 17, 1960,⁽¹¹⁾ the Committee of the Whole was considering H.R. 12619, a bill making appropriations for mutual security and related agencies. At one point the Clerk read as follows, and proceedings ensued as indicated below:

Special assistance, general authorization: For assistance authorized by section 400(a), \$206,000,000, of which not to exceed \$1,500,000 may be used to purchase foreign currencies or credits owed to or owned by the Treasury of the United States for assistance authorized by section 400(c) for construction of the American Research Hospital for Children in Poland at the University of Krakow. . .

MR. [H.R.] GROSS [of Iowa]: Mr. Chairman, I make the point of order against the language beginning on page 3, line 7, and ending on line 12 which reads as follows: "of which not to exceed \$1,500,000 may be used to purchase foreign currencies or credits owed to or owned by the Treasury of the United States for assistance authorized by section 400(c) for construction of the American Research Hospital for Children in Poland at the University of Krakow:"

Mr. Chairman, this language is legislation on an appropriation bill. The authorizing act, the Mutual Security Act of 1959, provides for the utilization

11. 106 CONG. REC. 13132, 13133, 86th Cong. 2d Sess.

of "foreign currencies for hospitals abroad designed to serve as centers for medical treatment, education and research founded or sponsored by citizens of the United States". . .

MR. [J. VAUGHAN] GARY [of Virginia]: Mr. Chairman, may I read the provision of law authorizing it? It is section 400(c) of the Mutual Security Act of 1954 as amended. It provides:

The President is authorized to use not to exceed \$20 million of the funds appropriated pursuant to subsection (a) of this section for assistance on such terms and conditions as he may specify to schools and libraries abroad founded or sponsored by citizens of the United States and serving as study and demonstration centers for ideas and practices of the United States notwithstanding any other act authorizing assistance of this kind

And further:

In addition to the authority contained in this subsection it is the sense of Congress that the President should make a special and a particular effort to utilize foreign currencies accruing under title I of the Agricultural Trade, Development and Assistance Act of 1954 as amended and notwithstanding the provisions of Public Law 213, 82d Congress, the President is authorized to utilize foreign currencies accruing to the United States under this or any other act for the purposes of this subsection and for hospitals abroad designed to serve as centers for medical treatment, education, and research, founded or sponsored by citizens of the United States.

THE CHAIRMAN:⁽¹²⁾ the Chair is of the opinion that the language of section 400(c) as read by the gentleman

12. Wilbur D. Mills (Ark.).

from Virginia [Mr. Gary] is sufficient to establish the point that this language is authorized by law; and therefore the Chair overrules the point of order made by the gentleman from Iowa [Mr. Gross].

Presidential Authority to Provide for Participation in International Exhibition

§ 17.6 An amendment providing funds for a health exhibit at the Universal and International Exhibition of Brussels was held to be authorized by law.

On Feb. 26, 1958,⁽¹³⁾ during consideration in the Committee of the Whole of H.R. 10881, a supplemental appropriation bill, a point of order against an amendment was overruled. The proceedings were as follows:

FUNDS APPROPRIATED TO THE
PRESIDENT

*President's special international
program*

Not to exceed \$1 million of the funds previously appropriated under this head for the trade fair exhibit in Gorki Park, Moscow, may be used for the Universal and International Exhibition of Brussels, 1958, and the limitation thereon as contained in the Supplemental Appropriation Act, 1958, is increased from "\$7,045,000" to "\$8,045,000."

13. 104 CONG. REC. 2910, 85th Cong. 2d Sess.

MR. [JOHN E.] FOGARTY [of Rhode Island]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fogarty: On page 17, lines 21 and 22, strike out "\$8,045,000" and insert in lieu thereof the following: "\$9,045,000, and in addition there is hereby appropriated \$1,000,000 to establish and conduct a health exhibit in connection with the Universal and International Exhibition of Brussels."

MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, I am constrained to make a point of order against this amendment for the reason that the purpose of it is not authorized. . . .

THE CHAIRMAN:⁽¹⁴⁾ the Chair is ready to rule.

The amendment offered by the gentleman from Rhode Island provides:

To establish and conduct a health exhibit in connection with the Universal and International Exhibition of Brussels.

In the statute authorizing our participation in this exhibition it is provided:

Sec. 2. The President is authorized to provide for United States representation in artistic, dramatic, musical, sports, and other cultural competitions and like exhibitions abroad

The phrase "like exhibitions abroad" in the opinion of the present occupant of the Chair, is sufficiently broad to include the object of the amendment offered by the gentleman from Rhode Island, particularly in view of the fact that in the stated purpose—and, of course, the purpose is not binding, however, it is provided:

The purpose of this chapter is to strengthen the ties which unite us with other nations by demonstrating the cultural interests, developments, and achievements of the people of the United States.

It certainly would seem to the present occupant of the Chair that one of the things we could point to with greatest pride would be our accomplishments in the medical field and the contributions being made by the United States economic and social system toward the peaceful and more fruitful life for its own people, and so on.

Reading the broad general purpose together with the statement in the statute concerning the President's authorization, leads the Chair to conclude that the appropriation is authorized by law.

The point of order is overruled.

Translation of Foreign Literature

§ 17.7 An amendment proposing to earmark part of the appropriation for the United States Information Agency for the establishment of a nonprofit book corporation to provide facilities for the translation and publication of books and other printed matter in various foreign languages was held to be unauthorized by law.

On Apr. 14, 1955,⁽¹⁵⁾ the Committee of the Whole was consid-

14. Francis E. Walter (Pa.).

15. 101 CONG. REC. 4504, 84th Cong. 1st Sess.

ering H.R. 5502, an appropriation bill for the Departments of State and Justice, the Judiciary, and related agencies. At one point the Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. O'Hara of Illinois: On page 35, line 14 strike out "Provided" and insert in lieu thereof the following: "*Provided*, That not to exceed \$350,000 shall be used for the establishment of a nonprofit book corporation to provide facilities for the translation and publication of books and other printed matter in the various foreign languages: *Provided further*,"

MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, I reserve a point of order against the amendment.

MR. [BARRATT] O'HARA of Illinois: Mr. Chairman, I had hoped that this amendment would be accepted by the Committee.

All that this amendment seeks to do is to make available to the peoples of the world the classics of American democracy that were the inspiration of our forefathers and have been an inspiration in our own lives. . . .

MR. ROONEY: Mr. Chairman, I insist on the point of order There is no authority in law for the appropriation, and it is legislation on an appropriation bill.

The Chairman:⁽¹⁶⁾ The gentleman from Illinois [Mr. O'Hara] offers an amendment which the Clerk has reported, against which the gentleman from New York [Mr. Rooney] makes a

point of order on the ground that it is not authorized by law. Can the gentleman from Illinois, the author of the amendment, cite to the Chair any authority in law for this appropriation?

MR. O'HARA of Illinois: Mr. Chairman, I am embarrassed by replying that I cannot.

THE CHAIRMAN: The Chair appreciates the gentleman's reply.

Obviously, the amendment is not in order. The Chair therefore sustains the point of order.

Appropriations to Nations Which Are Not Authorized to Receive Aid

§ 17.8 To a bill making appropriations for mutual security, 1952, to countries party to the North Atlantic Treaty and to countries determined by the President to be eligible for such assistance, an amendment providing that a part of the appropriations should be available for Spain, which was not included in either of the two categories, was held to be unauthorized.

On Oct. 11, 1951,⁽¹⁷⁾ the Committee of the Whole was considering H.R. 5684. During consideration of the bill, a point of order was sustained against an amendment as indicated below:

Military assistance, title I: For assistance authorized by section

17. 97 CONG. REC. 13020, 13025, 13026, 82d Cong. 1st Sess.

16. Jere Cooper (Tenn.).

101(a)(1), \$5,072,476,271, of which \$44,476,271 is for payment of obligations incurred under authority granted in the Second Supplemental Appropriation Act, 1950, and extended in the Foreign Aid Appropriation Act, 1951, to enter into contracts under the Mutual Defense Assistance Act of 1949, as amended (22 U.S.C. 1571-1604); and, in addition, unexpended balances of appropriations heretofore made for carrying out the purposes of title I of the Mutual Defense Assistance Act of 1949, as amended, shall remain available through June 30, 1952, and such unexpended balances of appropriations shall be consolidated with this appropriation; . . .

MR. [WILLIAM J.] GREEN [Jr., of Pennsylvania]: Mr. Chairman, I offer an amendment which is at the Clerk's desk

The Clerk read as follows:

Amendment offered by Mr. Green: On page 2, line 12, after the word "appropriation" and before the semicolon, insert "*Provided*, That of the amount appropriated by this paragraph the amount of \$200,000,000 shall be available for military assistance to Spain."

MR. [J. VAUGHAN] GARY [of Virginia]: Mr. Chairman, I raise a point of order against the amendment. . . .

THE CHAIRMAN:⁽¹⁸⁾ The first section of title I of the Mutual Security Act of 1951 provides authorization for appropriation for military assistance to European countries only in the following categories:

First. To countries party to the North Atlantic Treaty, and

Second. To countries determined by the President to be eligible for such as-

sistance under conditions spelled out by the act.

The act does not authorize appropriations to be available for countries other than those in the categories indicated. The Chair understands that Spain is not a party to the North Atlantic Treaty, and that the President has not designated Spain as an eligible country.

Therefore, the amendment provides for an appropriation which has not been authorized by law, and the point of order is sustained.

Expenses Incident to Treaty

§ 17.9 A treaty providing that representatives of the participating countries were to determine and record amounts of water available for purposes of the treaty and "to record the amounts of water used for power diversions" was held to authorize an appropriation for "investigations, pending authorization for construction, of projects for development . . . for power purposes of waters of the Niagara River"; and a reservation to the treaty that "no project for redevelopment of the United States share of such waters shall be undertaken until it be specifically authorized by Act of Congress" was held not to nullify such authorization.

18. Francis E. Walter (Pa.).

On Apr. 10, 1951,⁽¹⁹⁾ the Committee of the Whole was considering H.R. 3587, a supplemental appropriation bill. The following proceedings took place:

NIAGARA POWER DEVELOPMENT

For engineering and economic investigations, pending authorization for construction, of projects for development and utilization for power purposes of the waters of the Niagara River, allocated to the United States under the treaty between the United States of America and Canada signed February 27, 1950, and ratified by the United States Senate on August 9, 1950, to remain available until expended, \$450,000.

MR. [IVOR D.] FENTON [of Pennsylvania]: Mr. Chairman, a point of order.

THE CHAIRMAN:⁽²⁰⁾ The gentleman will state it.

MR. FENTON: Mr. Chairman, I raise a point of order to the language appearing on page 17, lines 9 to 18, inclusive, as an appropriation not authorized by law. . . .

THE CHAIRMAN: The Chair is ready to rule.

The point of order has been made that the item appearing on page 17, lines 9 to 18, inclusive, for Niagara power development is not authorized by law. It will be noted that the language of the proposed appropriation provides for investigations pending authorizations for construction of projects for power purposes of the waters of the

Niagara River allocated to the United States under the treaty between the United States of America and Canada signed February 27, 1950, and ratified by the United States Senate on August 9, 1950.

The Chair has examined a copy of the treaty and finds that the treaty provides in some detail for distribution of the water which flows over the Niagara Falls between the United States and Canada and then in article 7 provides:

The United States of America and Canada shall each designate a representative, who, acting jointly, shall ascertain and determine the amounts of water available for the purposes of this treaty, and shall record the same, and shall also record the amounts of water for power diversions.

It has long been settled that a duly ratified treaty to which the United States is party constitutes authority of law for appropriations. And it has also been settled by decisions of the Chair that the treaty need not specifically authorize specific appropriations. It is necessary only that the proposed appropriations be directly necessary to enable the United States to carry out the obligations it has assumed under the treaty. For example, in volume 7 of Cannon's Precedents, section 1138, a decision is recorded holding that where the United States has entered into a treaty establishing an international institute it is in order to appropriate the necessary funds to send delegates to the institute. It was further held in section 1142, volume 7, Cannon's Precedents, that a treaty providing for mutual reports by contracting parties to an international bureau was held to

19. 97 CONG. REC. 3575, 82d Cong. 1st Sess.

20. James J. Delaney (N.Y.).

sanction appropriations for the bureau's maintenance although no treaty had been entered into providing for the establishment of the bureau itself.

It seems clear, therefore, that the proposed appropriation is entirely within the purview of the treaty, as its only purpose is to provide the necessary funds for the United States to pay the expenses of the duly authorized representative of the United States acting under article 7 of the treaty.

The Chair, therefore, overrules the point of order.

Cultural Relations Program

§ 17.10 To a bill making appropriations for the Department of State, an amendment providing an appropriation for an information and cultural program to be disseminated in foreign countries was held to be unauthorized.

On May 14, 1947,⁽¹⁾ during consideration in the Committee of the Whole of a general appropriation bill (H.R. 3311), a point of order was raised against the following amendment:

MR. [J. VAUGHAN] GARY [of Virginia]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gary:
Page 2, line 18, after the semicolon

1. 93 CONG. REC. 5291, 5292, 80th Cong. 1st Sess.

insert "acquisition, production, and free distribution of informational materials for use in connection with the operation, independently or through individuals, including aliens, or public or private agencies (foreign or domestic), and without regard to section 3709 of the Revised Statutes, of an information program outside of the continental United States, including the purchase of radio time . . . and the purchase, rental . . . and operation of facilities for radio transmission and reception, the acquisition of land and interests in land . . . for radio broadcasting and relay facilities, and the acquisition or construction of buildings and necessary improvements on such lands; purchase and presentation of various objects of a cultural nature suitable for presentation (through diplomatic and consular offices) to foreign governments, schools, or other cultural or patriotic organizations . . . not to exceed \$13,000 for entertainment."

MR. [KARL] STEFAN [of Nebraska]: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN:⁽²⁾ The gentleman will state his point of order.

MR. STEFAN: Mr. Chairman, I make the point of order this is not authorized by law and it is legislation on an appropriation bill. . . .

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

MR. GARY: I do not, Mr. Chairman.

THE CHAIRMAN: The Chair is prepared to rule. It is the opinion of the Chair that the amendment does propose legislation on an appropriation bill, the functions therein referred to not being authorized by law. The point of order is sustained.

2. Carl T. Curtis (Nebr.).

§ 17.11 An appropriation to enable the Secretary of State to carry out a program of “cultural relations with China and countries of the Near East and Africa” was held unauthorized by law and to be legislation waiving existing law.

On Mar. 15, 1945,⁽³⁾ during consideration in the Committee of the Whole of a general appropriation bill (H.R. 2603), a point of order was raised against the following provision:

Cultural relations with China and the neighboring countries and countries of the Near East and Africa: For all expenses, without regard to section 3709 of the Revised Statutes, necessary to enable the Secretary of State independently or in cooperation with other agencies of the Government to carry out a program of cultural relations with China and the neighboring countries and with countries of the Near East and Africa, \$1,390,000 (payable from the appropriation “Emergency fund for the President,” contained in the First Supplemental National Defense Appropriation Act, 1943, as supplemented and amended). . . .

MR. [HENRY C.] DWORSHAK [of Idaho]: Mr. Chairman, I make a point of order against all of the paragraph beginning line 25, page 29, to and including line 17, on page 31, on the ground it is legislation on an appro-

priation bill and there is no authority in law for such an appropriation.

MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Chairman, I concede the point of order.

THE CHAIRMAN:⁽⁴⁾ The point of order is sustained

International Conference on Education

§ 17.12 Appropriations for a Conference of Allied Ministers of Education in London were conceded and held to be unauthorized by law.

On Mar. 15, 1945,⁽⁵⁾ the Committee of the Whole was considering H.R. 2603, a bill making appropriations for the State, Judiciary, and Commerce Departments, and the Federal Loan Agency. The following proceedings took place:

Conference of Allied Ministers of Education in London: For all necessary expenses of the participation by the United States in the Conference of Allied Ministers of Education in London, or its successor, and in addition for surveys and studies related to the work thereof, including personal services in the District of Columbia and elsewhere without regard to civil-service and classification laws; travel expenses without regard to the Standardized Government Travel Regulations and the Subsistence Expense Act of 1926, as amended; entertainment,

4. Wilbur D. Mills (Ark.).

5. 91 CONG. REC. 2307, 79th Cong. 1st Sess.

3. 91 CONG. REC. 2307, 79th Cong. 1st Sess.

stenographic reporting and other services by contract, books of reference and periodicals, and rent of office space, without regard to section 3709 of the Revised Statutes; printing and binding; and the share of the United States in the expenses of the secretariat of the Conference; \$172,000, payable from the appropriation "Emergency fund for the President," contained in the First Supplemental National Defense Appropriation Act, 1943, as supplemented and amended.

MR. [ROBERT F.] JONES [of Ohio]: Mr. Chairman, I make a point of order against the entire paragraph, beginning line 7, page 29, and continuing through line 24, on the ground this is not authorized by law.

MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Chairman, we concede the point of order.

THE CHAIRMAN:⁽⁶⁾ The point of order is sustained.

Foreign Service Incidental Expenses

§ 17.13 "Representation" allowances for ambassadors and foreign service officers were held authorized by law.

On Feb. 26, 1943,⁽⁷⁾ the Committee of the Whole was considering H.R. 1975, a deficiency appropriation bill. Proceedings were as follows:

Foreign Service, auxiliary (emergency): For an additional amount for

6. Wilbur D. Mills (Ark.).

7. 89 CONG. REC. 1369, 78th Cong. 1st Sess.

Foreign Service, auxiliary (emergency), Department of State, fiscal year 1943, including the objects specified under this head in the Department of State Appropriation Act, 1943, \$491,000: *Provided*, That cost of living and representation allowances, as authorized by the act approved February 23, 1931, as amended, may be paid from this appropriation to American citizens employed hereunder.

MR. [EDWARD H.] REES of Kansas: Mr. Chairman, a point of order.

THE CHAIRMAN:⁽⁸⁾ The gentleman will state it.

MR. REES of Kansas: Mr. Chairman, I make a point of order against the words "and representation," in line 11 on page 23, on the ground that they are legislation on an appropriation bill.

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, the item is authorized by law. Paragraph 12 of title XXII, found on page 1877 of the United States Code, provides specific authorization for the item.

MR. REES of Kansas: As I understand, this appropriation is for a new auxiliary service, not the regular service.

THE CHAIRMAN: Will the gentleman from Missouri advise the Chair whether the auxiliary service referred to in the paragraph is authorized by law?

MR. CANNON of Missouri: This comes within the provisions of the statute, which reads:

Under such regulations as the President may prescribe, and within the limitations of such appropriations as may be made therefor, which appropriations are authorized, ambassadors, ministers, Diplomatic,

8. Howard W. Smith (Va.).

Consular, and Foreign Service officers may be granted allowances for representation; and also post allowances wherever the cost of living may be proportionately so high that, in the opinion of the Secretary of State, such allowances are necessary to enable such Diplomatic, Consular, and Foreign Service officers to carry on their work efficiently.

THE CHAIRMAN: The Chair has advised itself on the language referred to by the gentleman from Missouri, but the point on which the Chair would like to be enlightened is the language in the last sentence of the paragraph referring to the fact that moneys may be paid from this appropriation to American citizens employed thereunder.

MR. CANNON of Missouri: Mr. Chairman, there is no specific legislation authorizing the Foreign Service Auxiliary, but it is in existence and is in operation at this time for this fiscal year. No point of order was made by the gentleman on that score. The point of order was directed at the provision for representation allowances, which are authorized by law, as I have indicated.

MR. REES of Kansas: Not for this kind of organization, Mr. Chairman.

THE CHAIRMAN: Will the gentleman from Missouri kindly answer one more questions the Chair has in mind? Is there legislative authorization for representation allowances to be made to American citizens employed in accordance with this paragraph?

MR. CANNON of Missouri: Mr. Chairman, language could not be more explicit than that just cited from paragraph 12 of title XXII, which specifically covers authorization of appropriations for cost of living and representa-

tion allowances under such circumstances.

THE CHAIRMAN: What the Chair is concerned about is, Does the term "American citizens" as used in this paragraph refer to ambassadors, ministers, diplomatic, consular, and Foreign Service officers. Is that what the committee has in mind?

MR. CANNON OF MISSOURI: Unless they were American citizens they could not be serving as representatives of this Government.

THE CHAIRMAN: Are they employees under the terms of this law?

MR. CANNON OF MISSOURI: Certainly; there can be no question about it.

THE CHAIRMAN: In view of the explanation made by the chairman of the Committee on Appropriations as to the existing law, the Chair is constrained to overrule the point of order made by the gentleman from Kansas.⁽⁹⁾

Foreign Service Auxiliary.

§ 17.14 Appropriations for the Foreign Service Auxiliary were not authorized by law.

On Feb. 26, 1943,⁽¹⁰⁾ the Committee of the Whole was considering H.R. 1975, a deficiency appropriation. At one point the Clerk read as follows, and proceedings ensued as indicated below:

Foreign Service, auxiliary (emergency): For an additional amount for

9. A further point of order made by Mr. Rees is discussed in § 17.14, *infra*.
10. 89 CONG. REC. 1369, 78th Cong. 1st Sess.

Foreign Service, auxiliary (emergency), Department of State, fiscal year 1943, including the objects specified under this head in the Department of State Appropriation Act, 1943, \$491,000: *Provided*, That cost of living and representation allowances, as authorized by the act approved February 23, 1931, as amended, may be paid from this appropriation to American citizens employed hereunder.

MR. [EDWARD H.] REES of Kansas: Mr. Chairman, I make the . . . point of order against the language in lines 6 to 13 on page 23 that it is legislation on an appropriation bill not authorized by law. . . .

MR. [CLARENCE] CANNON of Missouri: We have passed the proposition, Mr. Chairman; we are now on the proviso. The point of order made by the gentleman did not apply to the first portion, which is a separate entity as against the proviso. Inasmuch as the point of order was not interposed at the time, it now comes too late.⁽¹¹⁾

THE CHAIRMAN:⁽¹²⁾ The Chair advises the gentleman from Missouri that he will hold that the point of order does not come too late, in view of the fact that the proviso is a part of the paragraph. Does the gentleman desire to advise the Chair any further on the paragraph?

MR. CANNON of Missouri. The point has been covered.

THE CHAIRMAN: Will the gentleman from Missouri point out to the Chair the legislative authority for the Foreign Service Auxiliary? The section re-

ferred to by the gentleman from Missouri, which has been analyzed by the Chair, refers to the language ["and representation"] on line 11, page 23. Is there legislation to which the gentleman can refer the Chair authorizing the Foreign Service Auxiliary?

MR. CANNON of Missouri: There is no specific legislation on that, Mr. Chairman.

THE CHAIRMAN: In view of the statement of the gentleman from Missouri, the Chair sustains the point of order made by the gentleman from Kansas.

International Committee on Political Refugees

§ 17.15 An appropriation for expenses of participation by the United States in the International Committee on Political Refugees was not authorized by law.

On June 23, 1939,⁽¹³⁾ the Committee of the Whole was considering H.R. 6970, a deficiency and supplemental appropriation bill. The following proceedings took place:

International Committee on Political Refugees: For the expenses of participation by the United States in the International Committee on Political Refugees, including personal services in the District of Columbia and elsewhere without regard to the civil service laws and regulations or the Classification Act of 1923, as amended; sten-

11. The prior point of order is discussed in § 17.13, *supra*.

12. Howard W. Smith (Va.).

13. 84 CONG. REC. 7827, 76th Cong. 1st Sess.

ographic reporting, translating, and other services by contract if deemed necessary, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5); rent; traveling expenses; purchase of necessary books, documents, newspapers, and periodicals; stationery, equipment; official cards; printing and binding; entertainment; and such other expenses as may be authorized by the Secretary of State, including the reimbursement of other appropriations from which payments may have been made for any of the purposes herein specified, fiscal year 1940, \$20,000, together with the unexpended balance of the appropriation for this purpose for the fiscal years 1938 and 1939 contained in the Second Deficiency Appropriation Act, fiscal year 1938: *Provided*, That no salary shall be paid hereunder at a rate in excess of \$10,000 per annum.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order on the paragraph on the ground that it is not authorized by law.

THE CHAIRMAN:⁽¹⁴⁾ Does the gentleman from Virginia wish to be heard upon the point of order?

MR. [CLIFTON A.] WOODRUM of Virginia: Mr. Chairman, I think the point of order is well taken.

THE CHAIRMAN: The point of order is sustained.

Ambassadors' and Ministers' Pay

§ 17.16 Where the President at will has raised a legation to an embassy or reduced an

14. R. Ewing Thomason (Tex.).

embassy to a legation and followed it with an appointment under his constitutional authority in article II section 2, that has been approved by the Senate, an appropriation for the salary of the appointee has been held in order if the rate of pay was not in contravention of law.

On May 19, 1939,⁽¹⁵⁾ the Committee of the Whole was considering H.R. 6392, a State, Justice, Judiciary, and Commerce Departments appropriation. The following proceedings took place:

FOREIGN INTERCOURSE

Salaries, Ambassadors and Ministers: Ambassadors Extraordinary and Plenipotentiary to Argentina, Brazil, Chile, China, Colombia, Cuba, France, Germany, Great Britain, Italy, Japan, Mexico, Panama, Peru, Poland, Spain, Turkey, Union of Soviet Socialist Republics, and Venezuela, at \$17,500 each;

MR. [JOHN M.] VORYS of Ohio: Mr. Chairman, I make the point of order in the paragraph to the words "Columbia" in line 21, "Panama" in line 22, "Union of Soviet Socialist Republics" and "Venezuela" in line 23. I make the point of order that each is an appropriation not authorized by law. Title 22, section 31, of the Code sets forth the act of March 2, 1909, which provides:

No new ambassadorships shall be created unless the same shall be provided for by act of Congress.

15. 84 CONG. REC. 5846, 5847, 76th Cong. 1st Sess.

As to the other ambassadorships which are listed in this paragraph, they have been provided for by acts of Congress. As to these four, the Union of Soviet Socialist Republics has no statutory authorization, and the other three are new ambassadorships created in South America during last fall by the Department of State, for which there is no authority in law. There is not only no authority, but the appropriation is in clear violation of the act of Congress which I have quoted, which forbids the creation of new ambassadorships unless the same shall be provided for by act of Congress. . . .

THE CHAIRMAN:⁽¹⁶⁾ Will the gentleman permit the Chair to ask the gentleman from Ohio a question? The Chair would like to know whether or not the gentleman has taken the position that the Ambassadors or Ministers referred to have not been actually appointed and confirmed.

MR. VORYS of Ohio: Oh, no, Mr. Chairman, that is not the point at all.

THE CHAIRMAN: The gentleman concedes that these Ambassadors have been appointed and confirmed by the Senate?

MR. VORYS of Ohio: I concede that.

THE CHAIRMAN: The Chair feels justified in taking judicial notice of the appointment of these Ambassadors to these various countries named. . . .

The Chair is prepared to rule. This specific question seems to have been passed upon on a former occasion. In Cannon's Precedents, volume 7, section 1248, we find the following language:

The power of the President to appoint diplomatic representatives to

foreign governments and to determine their rank is derived from the Constitution and may not be circumscribed by statutory enactments.

Where the President has appointed a diplomatic representative and the appointment has been approved by the Senate, a point of order does not lie against an appropriation for the salary of such representative unless the rate of pay has been otherwise fixed by law.

A statute prohibiting the creation of new ambassadorships except by act of Congress is in contravention of the President's constitutional prerogatives and will not support a point of order against an appropriation for the salary of an ambassadorship not created by act of Congress but appointed by the President and confirmed by the Senate.

The President, at will, may raise a legation to an embassy or reduce an embassy to a legation, any statute to the contrary notwithstanding, and where the President has made such change and followed it with an appointment which has been approved by the Senate, an appropriation for the salary of the appointee is in order unless the rate of pay is in contravention of law.

In the decision to which the Chair has referred the Honorable Horace M. Towner, of Iowa, Chairman of the Committee of the Whole House on the state of the Union, referred to the identical statute referred to by the gentleman from Ohio, and that was taken into consideration at the time the decision was rendered.

In view of the precedents of the House, the Chair overrules the point of order.

§ 17.17 An appropriation for the salary of a particular U.S. minister to a foreign country

16. Harold D. Cooley (N.C.).

is not authorized by law (the Constitution) if the President has made an appointment but the Senate has not confirmed the appointee.

On Aug. 17, 1937,⁽¹⁷⁾ the Committee of the Whole was considering H.R. 8245, a deficiency appropriation bill. The following proceedings took place:

Salaries of ambassadors and ministers: For an additional amount for salaries of ambassadors and ministers, fiscal year 1938, for the salary of an envoy extraordinary and minister plenipotentiary to Lithuania at \$10,000 per annum, \$8,333.34: *Provided*, That the appropriation for salaries of ambassadors and ministers, fiscal year 1938, shall be available for payment of the salary of an envoy extraordinary and minister plenipotentiary to Estonia and Latvia at \$10,000 per annum. . . .

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Chairman, I make a point of order against the language on page 28, lines 4 to 12, inclusive, as constituting legislation on an appropriation bill, not authorized by law. It creates a new position, that of Minister of Lithuania. The President has no constitutional right and is empowered by no act of Congress to create additional positions. . . .

THE CHAIRMAN:⁽¹⁸⁾ The Chair is ready to rule As stated by the gentleman from Virginia, the President

17. 81 CONG. REC. 9175, 9176, 75th Cong. 1st Sess.

18. Claude V. Parsons (Ill.).

has the right to appoint. At the present time, however, the Senate has not confirmed the appointment. The appropriation, therefore, is subject to a point of order.

The Chair sustains the point of order.

Arms Control and Disarmament

§ 17.18 A paragraph in a general appropriation bill containing funds for the Arms Control and Disarmament Agency was conceded to be unauthorized by law for the fiscal year in question and was ruled out in violation of Rule XXI clause 2.

On June 14, 1978,⁽¹⁹⁾ during consideration in the Committee of the Whole of the Departments of State, Justice, Commerce, and Judiciary appropriation bill (H.R. 12934) a point of order was raised and sustained against the following provision:

ARMS CONTROL AND DISARMAMENT
AGENCY

ARMS CONTROL AND DISARMAMENT
ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed \$15,000 for official reception and representation expenses, author-

19. 124 CONG. REC. 17629, 95th Cong. 2d Sess.

ized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), \$16,395,000.

MR. [JOHN H.] ROUSSELOT [of California]: Mr. Chairman, I make a point of order on the basis of clause 2, rule XXI, that this is an unauthorized appropriation and is not authorized by law.

MR. [JOHN M.] SLACK [of West Virginia]: Mr. Chairman, I concede the point of order.

THE CHAIRMAN:⁽²⁰⁾ The gentleman from West Virginia (Mr. Slack) concedes the point of order, the paragraph is stricken, and the Clerk will read.

Parliamentarian's Note: 22 USC §2589 contains specific authorization for this agency on a fiscal year basis, and the bill amending this law to authorize appropriations for fiscal 1979 had passed both Houses prior to June 14 but had not yet been enacted into law (Public Law No. 95-338). This agency was not covered by the State Department authorization restriction cited supra, but is an independent agency governed solely by 22 USC §§ 2551-2589.

Board for International Broadcasting

§ 17.19 A paragraph in a general appropriation bill containing funds for the Board for International Broadcasting was conceded to be

20. George E. Brown, Jr. (Calif.).

unauthorized by law for the fiscal year in question and was ruled out in violation of Rule XXI clause 2.

On June 14, 1978,⁽¹⁾ during consideration in the Committee of the Whole of the Departments of State, Justice, Commerce, and Judiciary appropriation bill (H.R. 12934), a point of order was sustained against the following provision:

The Clerk read as follows:

BOARD FOR INTERNATIONAL
BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., \$85,000,000, of which \$2,000,000, to remain available until expended, shall be available only for fluctuations in foreign currency exchange rates in accordance with the provisions of section 8 of the Board for International Broadcasting Act of 1973, as amended: *Provided*, That not to exceed \$40,000 shall be available for official reception and representation expenses.

MR. [JOHN H.] ROUSSELOT [of California]: Mr. Chairman, I make a point of order on the basis of clause 2, rule XXI, that this is an unauthorized appropriation and has not been authorized by law.

MR. [JOHN M.] SLACK [of West Virginia]: Mr. Chairman, I concede the point of order.

1. 124 CONG. REC. 17629, 95th Cong. 2d Sess.

THE CHAIRMAN:⁽²⁾ The gentleman from West Virginia (Mr. Slack) concedes the point of order.

The paragraph is stricken and the Clerk will read.

Parliamentarian's Note: 22 USC § 2877 contains specific authorization for the Board on a fiscal year basis, and the fiscal 1979 authorization bill for this Board was part of H.R. 12598, State Department and other agencies authorization bill, which had passed the House but not the Senate on this date (see Public Law No. 95-426). Under 22 USC Sec. 2872, however, the Board was established independently of the Department of State and was not therefore subject to the restrictions in 22 USC § 2680(a) requiring specific authorization for State Department activities.

International Communications Agency

§ 17.20 The creation of the International Communications Agency by Reorganization Plan No. 2 of 1977 was conceded not to constitute sufficient authorization in law for appropriations for that agency for fiscal 1979, where under section 2 of that plan the agency remained subject to direction of the

2. George E. Brown, Jr. (Calif.).

Department of State and thus subject to the requirement for specific authorization in law applicable to the Department, where the specific authorization bill for the fiscal year in question had not yet been enacted, and where the reorganization plan contained no specific authorization for appropriations.

On June 14, 1978,⁽³⁾ during consideration in the Committee of the Whole of the Departments of State, Justice, Commerce, and Judiciary appropriation bill (H.R. 12934), a point of order was sustained against the following provision:

The Clerk read as follows:

INTERNATIONAL COMMUNICATION
AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the International Communication Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities. . . .

MR. [JOHN H.] ROUSSELOT [of California]: Mr. Chairman, I make a point

3. 124 CONG. REC. 17630, 95th Cong. 2d Sess.

of order on the basis of rule XXI, clause 2, that this is an unauthorized appropriation and has not been authorized by law.

MR. [JOHN M.] SLACK [of West Virginia]: Mr. Chairman, I concede the point of order.

THE CHAIRMAN:⁽⁴⁾ The point of order is conceded, sustained, and the paragraph is stricken.

Department of State, Requirement for Annual Authorization

§ 17.21 Appropriations in a general appropriation bill for the Department of State, including salaries and expenses, representation allowances, expenses under the Foreign Services Buildings Act, special foreign currency program, emergencies in the diplomatic and consular service, retirement and disability fund, international conferences, international peacekeeping activities, missions to international organizations, international conferences and contingencies, international trade negotiations, international commissions, construction, and general provisions, no authorizations for such appropriations having been enacted for the fiscal year in question as spe-

4. George E. Brown, Jr. (Calif.).

cifically required by law, were conceded to be unauthorized and were ruled out as in violation of Rule XXI clause 2.

Pursuant to law [22 USC §2680(a)(1)], no funds shall be available to the Department of State for obligation or expenditure unless the appropriation thereof has been authorized by law enacted after February 1972 (thus requiring specific subsequently enacted authorizations for both the direct operations of that Department and related functions delegated to it by laws enacted prior to that date, and not permitting appropriations under Rule XXI clause 2 to be authorized by the "organic statute" or other laws earlier authorizing appropriations for related activities). Accordingly, on June 14, 1978,⁽⁵⁾ during consideration of H.R. 12934 (Departments of State, Justice, Commerce, and the Judiciary, and related agencies appropriations for fiscal 1979), several points of order made against paragraphs of the bill were conceded and sustained. Among the provisions subject to points of order were the following:

The Clerk read as follows:

5. 124 CONG. REC. 17616, 17617, 17620, 95th Cong. 2d Sess.

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including allowances as authorized by 5 U.S.C. 5921-5925; expenses of binational arbitrations arising under international air transport agreements; expenses necessary to meet the responsibilities and obligations of the United States in Germany (including those arising under the supreme authority assumed by the United States on June 5, 1945, and under contractual arrangements with the Federal Republic of Germany) . . . \$659,000,000. . . .

MR. [JOHN H.] ROUSSELOT [of California]: Mr. Chairman, I make a point of order against this language in this paragraph in that it amounts to an unauthorized appropriation, and it cannot be contained in an appropriation bill unless authorized by law. . . .

MR. [JOHN M.] SLACK [of West Virginia]: . . . Mr. Chairman, the gentleman is correct if he insists on his point of order, in which event I would concede the point of order.

THE CHAIRMAN: ⁽⁶⁾ The point of order is conceded and sustained. The paragraph in question is stricken from the bill. . . .

The Clerk read as follows:

For necessary expenses of carrying into effect the Foreign Service Buildings Act, 1926, as amended (22 U.S.C. 292-300), including personal services in the United States and abroad; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801-1158); allowances as authorized by 5 U.S.C. 5921-5925; and services as authorized by 5 U.S.C. 3109; \$125,000,000, to remain available until expended:

Provided, That not to exceed \$2,544,000 may be used for administrative expenses during the current fiscal year. . . .

MR. ROUSSELOT: Mr. Chairman, I make a point of order against the language in this paragraph in that it amounts to an unauthorized appropriation, and it cannot be contained in an appropriation bill unless authorized by law. . . .

MR. SLACK: . . . Mr. Chairman, again, if the gentleman from California insists on his point of order, I concede the point of order. . . .

The Clerk read as follows:

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, \$38,107,000.

MR. ROUSSELOT: Mr. Chairman, on the basis of clause 2, rule XXI, I make the same point of order. . . .

MR. SLACK: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The Chair makes the same ruling. . . .

The Clerk read as follows:

INTERNATIONAL TRADE NEGOTIATIONS

For necessary expenses of participation by the United States in international trade negotiations, including not to exceed \$25,000 for representation allowances, as authorized by section 901 of the Act of August 13, 1946, as amended (22 U.S.C. 1131), and for official entertainment, \$4,717,000: *Provided*, That this appropriation shall be available in accordance with the authority provided in the current appropriation for "International conferences and contingencies".

MR. ROUSSELOT: Mr. Chairman, on the basis of clause 2, rule XXI, I make the same point of order once again. . . .

6. George E. Brown, Jr. (Calif.).

MR. SLACK: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The Chair sustains the point of order. In each case the paragraph will be stricken.

§ 18. Justice

Training of United States Attorneys

§ 18.1 An appropriation for the training of United States attorneys and other officials was held not authorized by a law empowering the Attorney General to exercise supervision over United States attorneys.

On Apr. 3, 1936,⁽⁷⁾ the Committee of the Whole was considering H.R. 12098, an appropriation bill for the State, Justice, Commerce, and Labor Departments. During consideration, a point of order was sustained against a paragraph in the bill as indicated below:

Salaries and expenses: For salaries and expenses incident to the special instruction and training of the United States attorneys and United States marshals, their assistants and deputies, and United States commissioners, including personal services, supplies, and equipment in the District of Columbia, traveling expenses, including

7. 80 CONG. REC. 4926, 4927, 74th Cong. 2d Sess.

expenses of attendance at meetings when specifically authorized by the Attorney General, \$35,000.

MR. [THOMAS L.] BLANTON [of Texas]: Mr. Chairman, I make a point of order against the paragraph beginning on page 38, line 17, ending on line 26, embracing the proposed appropriation of \$35,000, because there is no law authorizing it and it is legislation upon an appropriation bill, unauthorized by law.

THE CHAIRMAN:⁽⁸⁾ the Chair will hear the gentleman from South Carolina [Mr. McMILLAN] on the point of order.

MR. [JOHN L.] McMILLAN: Mr. Chairman, this item is carried in the bill, I may say to the Committee, on the authority of law as we find it in section 317 of title V of the Code of Laws of the United States in force January 3, 1935, in which I find this language:

The Attorney General shall exercise general superintendence and direction over the attorneys and marshals in the districts of the United States and Territories as to the manner of discharging their respective duties—

And so forth. We take it that, in view of the language I have just read, the Attorney General would have discretion under this substantive law to provide for these men, marshals and district attorneys, and what not, to be brought to Washington for such a course of instruction or training as they may need. The purpose of this language is to make uniform a policy to apply to district attorneys and marshals throughout the country.

8. Byron B. Harlan (Ohio).