disapproved herein shall be made available for obligation.

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Chairman, I raise a point of order against this section of the bill. . . .

[I]n clause 2 of rule XXI, it states that legislation in an appropriation bill is not appropriate. This is a disapproval of a deferral, which is legislation in an appropriation bill, therefore, I think, Mr. Chairman, it is subject to a point of order against it under clause 2 of rule XXI. . . .

MR. [NEAL] SMITH of Iowa: Mr. Chairman, I will point out that there are three or four deferrals in here, and obviously, that is true. We could report separate bills and take up the time of the House, but all we are doing here is avoiding that. The committee is in full agreement on both sides of the aisle. This is just avoiding taking up the time of the House with a number of separate bills. So there is no need for it. We just put that in here to do it in an easier way.

MR. WALKER: . . . The point that this gentleman from Pennsylvania is making is that they are inappropriate in a bill which makes appropriations under the rules of the House, and I am simply trying to sustain the rules.

THE CHAIRMAN:[4] Does the gentleman from Pennsylvania (Mr. Walker) insist on his point of order?

MR. WALKER: I insist on my point of order, Mr. Chairman.

THE CHAIRMAN: The Chair sustains the point of order.

Parliamentarian's Note: While the Impoundment Control Act (Public Law No. 93–344, title X) provided a procedure for privileged consideration of resolutions of disapproval of Presidential deferrals of budget authority, and while the Committee on Appropriations is an appropriate committee for referral of such resolutions, such provisions when included in general appropriation bills are nevertheless legislation changing the procedure for congressional disapproval.

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

§ 28. Provisions Affecting Funds Held in Trust

Diverting From Highway Trust Fund

§ 28.1 The appropriation for a new purpose not authorized by law of funds held in trust in the Treasury for a different purpose, is legislation, changing the nature of the trust fund and not in order on an appropriation bill.

On May 28, 1959,[5] during consideration in the Committee of the Whole of a general appropriation bill (H.R. 7349), a point of order was raised against the following provision:

5. 105 CONG. REC. 9351, 86th Cong. 1st Sess.

FOREST HIGHWAYS (TRUST FUND) (LIQUIDATION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 204, pursuant to contract authorization granted by title 23, United States Code, section 203, to remain available until expended, $37,100,000, to be derived from the "Highway trust fund", which sum is composed of $33,350,000, the remainder of the amount authorized to be appropriated for the fiscal year 1959, and $3,750,000, a part of the amount authorized to be appropriated for the fiscal year 1960: *Provided,* That the unexpended balances as of June 30, 1959, of appropriations heretofore granted under the head "Forest highways" or "Forest highways (liquidation of contract authorization)" are rescinded and shall be credited to miscellaneous receipts of the Treasury: *Provided further,* That this appropriation shall be available for the rental, purchase, construction, or alterations of buildings and sites necessary for the storage and repair of equipment and supplies used for road construction and maintenance, but the total cost of any such item under this authorization shall not exceed $15,000.

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Chairman, a point of order.

THE CHAIRMAN:[6] The gentleman will state it.

MR. MILLS: Mr. Chairman, I make the point of order against the language in the bill beginning on line 22, page 12, and ending with line 17, page 13, on the ground that the paragraph contains language which proposes to change existing law and is therefore legislation on an appropriation bill.

I direct the Chairman's attention to this particular language on page 13, line 3: "to be derived from the highway trust fund." There is no authorization for expenditure from the highway trust fund for the purposes proposed in this paragraph.

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

MR. [PRINCE H.] PRESTON [Jr., of Georgia]: Mr. Chairman, the point of order is well taken. We concede the point of order.

THE CHAIRMAN: The Chair sustains the point of order.

In a similar case, on May 20, 1958,[7] language in an appropriation bill appropriating funds for the federal aid highway trust fund for expenses of forest roads and trails, had been held to be unauthorized and not in order. On that day, during consideration in the Committee of the Whole of the commerce appropriation bill (H.R. 12540), a point of order was raised against the following provision:

Forest highways (trust fund)

For expenses, not otherwise provided for, necessary for carrying out the provisions of section 23 of the Federal Highway Act of November 9, 1921, as amended (23 U.S.C. 23, 23a), to remain

6. Aime J. Forand (R.I.).

7. 104 CONG. REC. 9065, 85th Cong. 2d Sess.

available until expended, $30 million, to be derived from the highway trust fund; which sum is composed of $22,250,000, the remainder of the amount authorized to be appropriated for the fiscal year 1958, and $7,750,000, a part of the amount authorized to be appropriated for the fiscal year 1959: *Provided*, That this appropriation shall be available for the rental, purchase, construction, or alterations of buildings and sites necessary for the storage and repair of equipment and supplies used for road construction and maintenance, but the total cost of any such item under this authorization shall not exceed $15,000.

MR. [ROBERT E.] JONES [Jr.] of Alabama: Mr. Chairman, I make a point of order against the language contained on line 16 immediately following the language "$30 million to be derived from the 'highway trust fund'" as being legislation on an appropriation bill and therefore subject to a point of order.

THE CHAIRMAN:[8] Does the gentleman from Georgia desire to be heard on the point of order?

MR. [PRINCE H.] PRESTON [Jr., of Georgia]: Briefly, Mr. Chairman. The reason this language was included in the bill is that it was requested by the Bureau of the Budget, and for the reason further that 95 percent of all forest highways are part of the Federal aid system. The committee felt, since that was true, it was a logical step to put the whole thing under the Federal aid system rather than make a direct appropriation for forest highways and public lands highways.

I do concede that the point of order is well taken; it is legislation.

THE CHAIRMAN: The Chair has examined the question and finds that the language is subject to a point of order and therefore sustains the point of order.

Forest Roads and Trails

§ 28.2 Language in an appropriation bill appropriating funds in the federal aid highway trust fund for expenses of forest roads and trails was held not in order where no authorization existed for the expenditure from the highway trust fund for those proposed purposes

On Feb. 9, 1960,[9] during consideration in the Committee of the Whole of a general appropriation bill (H.R 10234), a point of order was raised against the following provision:

The Clerk read as follows:

FOREST HIGHWAYS (TRUST FUND) (LIQUIDATION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 204, pursuant to contract authorization granted by title 23, United States Code, section 203, to remain available until expended, $36,000,000, to be derived from the "Highway trust fund"; which sum is composed of $2,250,000, the remainder of the amount authorized to be

8. Herbert C. Bonner (N.C.).

9. 106 CONG. REC. 2348, 86th Cong. 2d Sess.

appropriated for the fiscal year 1959, and $33,000,000, the amount authorized to be appropriated for the fiscal year 1960, and $750,000, a part of the amount authorized to be appropriated for the fiscal year 1961: *Provided,* That the unexpended balance as of June 30, 1960, of appropriations heretofore granted under the head "Forest highways (liquidation of contract authorization)" is hereby rescinded: *Provided further,* That this appropriation shall be available for the rental, purchase, construction, or alterations of buildings and sites necessary for the storage and repair of equipment and supplies used for road construction and maintenance but the total cost of any such item under this authorization shall not exceed $15,000

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Chairman, I rise to make a point of order against the language appearing in the bill on page 13, line 16, through line 11 on page 14

The language therein contained is, in my opinion, subject to a point of order on the ground that there is no authorization for this action by the Appropriations Committee. The language is legislation in an appropriation bill.

THE CHAIRMAN:[10] Does the gentleman from Georgia desire to be heard on the point of order?

MR. [PRINCE H.] PRESTON [Jr., of Georgia]: Yes, Mr. Chairman.

I would like to say that the language carried in the bill is as it was presented to the committee by the Bureau of Roads. The language was carried in the bill last year, and a point of order was made against it, and we conceded the point of order, which we do in this instance, because it clearly is subject to a point of order. But it is a continuing difficulty that we have to deal with later on.

THE CHAIRMAN: The Chair sustains the point of order.

Highway Trust Fund, Administrative Expenses

§ 28.3 Language in an appropriation bill appropriating funds in the federal aid highway trust fund for administrative expenses of the Internal Revenue Service for collection and allocation of taxes to the fund was held to be unauthorized by law and therefore legislation and not in order.

On Mar. 4, 1958,[11] the Committee of the Whole was considering H.R. 11085, a bill making appropriations for the U.S. Treasury and the Post Office Departments. At one point the Clerk read as follows:

INTERNAL REVENUE SERVICE

Salaries and Expenses

For necessary expenses of the Internal Revenue Service, including purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles; and services as authorized by section 15 of the act of August 2, 1946 (5 U.S.C. 55a), and of expert witnesses at such rates as may be determined by

10. Aime J. Forand (R.I.)

11. 104 CONG. REC. 3410–12, 85th Cong. 2d Sess.

the Commissioner; $322 million, together with $3,500,000 to be derived from the fund established pursuant to section 209 of the Highway Revenue Act of 1956: *Provided,* That not to exceed $200,000 of the amount appropriated herein shall be available for expenses of instruction and facilities for the training of employees by contract, subject to such regulations as may be prescribed by the Secretary of the Treasury.

MR. [HALE] BOGGS [of Louisiana]: Mr. Chairman, I make the point of order against the language appearing on page 3, in lines 19 and 20, and the portion of line 21 preceding the proviso, that the language proposes to change existing law and is legislation on an appropriation bill. . . .

THE CHAIRMAN:[12] The Chair thanks the gentlemen for their able presentation and is prepared to rule.

This matter does present some difficulty, of course, and requires an interpretation of section 209 of the Federal-Aid Highway Act of 1956. Reference to the legislative history would indicate that it was the intention of the Congress to preserve inviolate trust funds for highway purposes, with such indirect use as appeared clearly from the act itself. And, when we take that into account and the precedents with reference to the disposition of trust funds, I think it appears that the language is not sufficiently broad to cover the proposed appropriation in this case, and in the absence of an authorization otherwise, the point of order should be sustained

§ 28.4 Language in an appropriation bill appropriating funds in the federal aid highway trust fund for payment of obligations incurred pursuant to the contract authorization granted for public lands highways, was held to be legislation and not in order.

On May 20, 1958,[13] during consideration in the Committee of the Whole of the Commerce Department appropriation bill (H.R. 12540), a point of order was raised against the following provision:

The Clerk read as follows:

Public lands highways (trust fund)

For payment of obligations incurred pursuant to the contract authorization granted by section 106 of the Federal-Aid Highway Act of 1956 (23 U.S.C. 155), to remain available until expended, $2,692,000, to be derived from the highway trust fund; which sum is composed of $692,000, the balance of the amount authorized to be appropriated for the fiscal year 1958, and $2 million, a part of the amount authorized for the fiscal year 1959.

MR. [ROBERT E.] JONES [Jr.] of Alabama: Mr. Chairman, I make a point of order against the language appearing on line 8, '$2,692,000, to be derived from the "highway trust fund" as being legislation on an appropriation bill.

MR. [PRINCE H.] PRESTON [Jr., of Georgia]: Mr. Chairman, the situation is the same with this item as the pre-

12. Brooks Hays (Ark.).

13. 104 CONG. REC. 9067, 85th Cong. 2d Sess.

vious item, and we concede the point of order.

THE CHAIRMAN:[14] The Chair has examined the language and sustains the point of order.

Transfer From Unemployment Trust Fund

§ 28.5 Language in an appropriation bill providing for transfer from the unemployment trust fund a sum for expenses of the Bureau of Employment Security was held to be legislation and not in order.

On Mar. 27, 1958,[15] during consideration in the Committee of the Whole of the Departments of Labor and Health, Education, and Welfare appropriation bill (H.R. 11645), a point of order was raised against the following provision:

The Clerk read as follows:

BUREAU OF EMPLOYMENT SECURITY

Salaries and Expenses

For expenses necessary for the general administration of the employment service and unemployment compensation programs, including temporary employment of persons, without regard to the civil-service laws, for the farm placement migratory labor program; $6,219,000, of which $6,093,400 shall be derived by transfer from the Federal unemployment account in the unemployment trust fund, and of which $1,145,800 shall be for carrying into effect the provisions of title IV (except section 602) of the Servicemen's Readjustment Act of 1944.

MR. [MELVIN R.] LAIRD [of Wisconsin]: Mr. Chairman, I make a point of order against the language on page 4 line 13 starting with the word "of" and continuing through the word "and" on line 16. I am not objecting to the provision to provide for the $6,093,400, but rather the way in which it is being provided.

On page 4 of this bill dealing with appropriations to the Bureau of Employment Security in the Labor Department line 14 reads as follows:

$6,093,400 shall be derived by transfer from the Federal unemployment trust fund.

There is no provision in substantive law authorizing the transfer of any sums from the unemployment account except to the account of a State in the unemployment trust fund, which State has applied for and been certified as eligible to receive an interest-free repayable advance for the purpose of replenishing its depleted reserve account

The Federal unemployment account is commonly referred to as a State's loan fund. There is no valid basis for the transfer of these funds from the unemployment trust fund to take care of the expenses and salaries of the Bureau of Employment Security. This transfer contravenes the intent and purpose of the provision for the loan fund to assist the States which are in financial difficulty to continue to make benefit payments.

The Federal unemployment account is in no manner analogous to the OASI

14. Herbert C. Bonner (N.C.).

15. 104 CONG. REC. 5630, 85th Cong. 2d Sess.

and railroad retirement trust funds, which trust funds specifically earmark all tax collections for crediting to the trust funds and specifically authorize a transfer out of these trust funds of amounts necessary to defray the cost of the OASI and railroad retirement administration.

An examination of section 904(h), which establishes the Federal unemployment account in the unemployment trust fund, and of sections 901 and 902, which provide for the computation of any positive balance which is to go into the trust fund, and of section 903, which provides for the crediting of the positive balance to the trust fund, and of section 1201, which provides for the making of advances out of the Federal unemployment account, and of section 1202, which provides for the crediting of certain tax collections directly to the Federal unemployment account, will clearly disclose that there is no provision whatsoever for the use of funds in the Federal unemployment account except for the single and sole purpose of making repayable interest-free advances to the States.

MR. [JOHN E.] FOGARTY [of Rhode Island]: We concede the point of order, Mr. Chairman.

THE CHAIRMAN:[16] The point of order is sustained.

District of Columbia Gasoline Tax Fund

§ 28.6 An appropriation for the salary and expenses of the office of Director of Vehicles and Traffic out of the District of Columbia Gasoline Tax Fund was held to be legislative since the Gasoline Tax Act provides that revenue raised through its operation could only be appropriated by Congress for road and street improvements and repairs.

On Apr. 2, 1937,[17] during consideration in the Committee of the Whole of the District of Columbia appropriation bill, a point of order was raised against the following provision:

The Clerk read as follows:

For paving, repaving, grading, and otherwise improving streets, avenues, and roads, including temporary per-diem services, surveying instruments and implements, and drawing materials, and the maintenance of motor vehicles used in this work, including curbing and gutters and replacement of curb-line trees where necessary, and including trees and parkings, assessment and permit work and the several purposes provided for in that paragraph, and salaries and expenses of the office of the Director of Vehicles and Traffic, as follows, to be paid from the special fund created by section 1 of the act entitled "An act to provide for a tax on motor-vehicle fuels sold within the District of Columbia, and for other purposes", approved April 23, 1924 (43 Stat., p. 106), and accretions by repayment of assessments.

MR. [JACK] NICHOLS [of Oklahoma]: Mr. Chairman, I make the point of

16. Eugene J. Keogh (N.Y.).

17. 81 CONG. REC. 3110, 3111, 75th Cong. 1st Sess.

order against the portion beginning in line 11 on page 71 after the word "work", and beginning with the word "including", going through lines 11, 12, and 13, on down to and inclusive of line 21, on the ground that it is legislation and changes existing law. . . .

THE CHAIRMAN:[18] The Chair is prepared to rule. The gentleman from Oklahoma [Mr. Nichols] makes a point of order against certain language appearing on page 71, beginning with the word "including", in line 11, and extending to the end of the paragraph.

The gentleman from Mississippi [Mr. Collins] in speaking in opposition to the point of order, has called attention to certain improvements that are provided for by the language included in this part of the bill. The Chair would be inclined to agree with the gentleman in the contention that he presents in all respects except that relating to the question of salaries and expenses of the office of director of vehicles and traffic. The Chair observes that the office of director of vehicles and traffic is provided for in the act to regulate traffic in the District of Columbia, and so forth. An examination of this law clearly shows that the director of vehicles and traffic has rather broad general duties to perform, and it is not related alone to what might be imposed upon him in connection with the Gasoline Tax Act. The Gasoline tax Act provides, as was pointed out by the gentleman from Oklahoma, that—

> The proceeds of the tax, except as provided in section 840 of this title, shall be paid into the Treasury of the United States entirely to the credit of the District of Columbia and shall be available for appropriations by the Congress exclusively for road and street improvements and repairs.

The Chair is unable to see how that language would be broad enough to authorize the payment of salaries for the director of vehicles and traffic. The Gasoline Tax Act does not make provision for the payment of the salaries to which the Chair has directed attention. Therefore, salaries paid out of this fund would not be authorized by law. For that reason the provision to which the point of order is made would, in the opinion of the Chair, be legislation on a general appropriation bill and would be subject to a point of order.

Therefore the Chair sustains the point of order.

Indians' Judgment Fund

§ 28.7 Language in an appropriation bill providing that a specific amount of the appropriation shall be available from the judgment fund appropriated for the Indians of California to be advanced in part for payment of attorneys employed by any tribe under contracts approved by the Secretary of the Interior, was held to be legislation and not in order.

On May 3, 1950,[19] during consideration in the Committee of the Whole of the Interior Department

18. Jere Cooper (Tenn.).

19. 96 CONG. REC. 6304, 6305, 81st Cong. 2d Sess.

appropriation bill (H.R. 7786), the following proceedings took place:

TRIBAL FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is hereby appropriated $2,525,465 from tribal funds not otherwise available for expenditure for the benefit of Indians and Indian tribes, including pay and travel expenses of employees . . . compensation and expenses of attorneys and other persons employed by Indian tribes under approved contracts; pay, travel and other expenses of tribal officers, councils, and committees thereof . . . and employment of a recreational director for the Menominee Reservation and a curator for the Osage Museum . . . *Provided,* That $100,000 of the amount appropriated herein shall be available from the judgment fund appropriated for the Indians of California by section 203 of the act of April 25, 1945 (59 Stat. 77), to be advanced for compensation and expenses of attorneys and other persons employed by any tribe, band, or other identifiable groups of Indians of California under contracts approved by the Secretary . . . *Provided further,* That in addition to the amount appropriated herein, tribal funds may be advanced to Indian tribes for such purposes as may be designated by the governing body of the particular tribe involved and approved by the Secretary. Any tribal funds advanced under this authority shall be reported to the Congress in the annual budget for the next succeeding fiscal year

MR. [THOMAS H.] WERDEL [of California]: Mr. Chairman, I make a point of order, on the ground that it is legislation on an appropriation bill, against the language commencing with the word "*Provided*" in line 3, page 229, reading:

> That $100,000 of the amount appropriated herein shall be available from the judgment fund appropriated for the Indians of California by section 203 of the Act of April 25, 1945 (59 Stat. 77), to be advanced for compensation and expenses of attorneys. . . .

THE CHAIRMAN:[20] Does the gentleman from Washington desire to be heard on the point of order?

MR. [HENRY M.] JACKSON of Washington: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The Chair sustains the point of order.

Farm Labor Supply Revolving Fund

§ 28.8 Language in an appropriation bill providing for transfer of funds from the farm labor supply revolving fund for expenses of the Mexican farm labor program was held to be legislation and not in order.

On Mar. 27, 1958,[1] during consideration in the Committee of the Whole of the Departments of Labor and Health, Education, and Welfare appropriation bill (H.R.

20. Jere Cooper (Tenn.).

1. 104 CONG. REC. 5630, 85th Cong. 2d Sess.

11645), a point of order was raised against the following provision:

The Clerk read as follows:

Salaries and expenses, Mexican farm labor program

For expenses, not otherwise provided for, necessary to carry out the functions of the Department of Labor under the act of July 12, 1951, as amended, $1,550,000, to be derived by transfer from the farm labor supply revolving fund: *Provided,* That reimbursement to the United States under agreements hereafter entered into pursuant to section 502 of the act of July 12, 1951, as amended, shall include all expenses of program operations except those compliance activities separately provided for herein.

MR. [WILLIAM R.] POAGE [of Texas]: Mr. Chairman, I make the point of order that this is legislation on an appropriation bill. . . .

THE CHAIRMAN:[2] Does the gentleman from Rhode Island desire to be heard on the point of order?

MR. [JOHN E.] FOGARTY [of Rhode Island]: Mr. Chairman, we must concede the point of order.

THE CHAIRMAN: The point of order is sustained.

§ 29. Transfer of Funds Within Same Bill

Transfers of appropriations within the confines of the same bill are normally considered in order on a general appropriation bill if not accompanied by legislative language.

Bestowing New Authority on Bureau of the Budget

§ 29.1 Language in a general appropriation bill authorizing the Secretary of Labor to allot or transfer, with the approval of the Director of the Budget, funds from a certain appropriation in the bill to any bureau of the Department of Labor, to enable such agency to perform certain services, was held to be legislation and not in order on a general appropriation bill.

On Jan. 20, 1939,[3] the Committee of the Whole was considering H.R. 2868, a deficiency appropriation bill. The Clerk read a paragraph providing an appropriation for the Department of Labor, Wage and Hour Division, which contained the following proviso:

Provided, That the Secretary of Labor may allot or transfer, with the approval of the Director of the Bureau of the Budget, funds from this appropriation to any bureau or office of the

2. Eugene J. Keogh (N.Y.).

3. 84 CONG. REC. 591, 592, 76th Cong. 1st Sess.