withstanding the inclusion in prior year appropriation bills of similar legislation applicable to funds in prior years. The proceedings are discussed in § 52.44, infra.

§ 2. Points of Order; Timeliness

As all bills making or authorizing appropriations require consideration in Committee of the Whole, it follows that the enforcement of Rule XXI clause 2 must ordinarily occur during consideration in Committee of the Whole, where the Chair, on the raising of a point of order, may rule out any portion of the bill in conflict with the rule. No report of parts of the bill thus ruled out is made to the House. It is the practice, therefore, for some Member to reserve points of order when a general appropriation bill is referred to Committee of the Whole, in order that portions in violation of the rule may be eliminated in the Committee. On one occasion where points of order were not reserved against an appropriation bill when it was reported to the House and referred to the Committee of the Whole, points of order in the Committee of the Whole against a proposition in violation of this clause were overruled, on the ground that the Chairman of the Committee of the Whole lacked authority to pass upon the question.[7]

General appropriation bills are read "scientifically" only by paragraph headings and appropriation amounts, and points of order against a paragraph must be made before an amendment is offered thereto or before the Clerk reads the next paragraph heading and amount. Where the bill is considered as having been read and open to amendment by unanimous consent, points of order against provisions in the bill must be made before amendments are offered, and cannot be reserved pending subsequent action on amendments.[8]

Reservation of Points of Order

§ 2.1 Since points of order had not been reserved on an appropriation bill when it was reported to the House and referred to the Committee of the Whole, points of order against a proposition in violation of Rule XXI clause 2 were overruled on the ground that the Chairman lacked authority to pass upon the question.

7. See § 2.1, infra.
8. See the discussion in *House Rules and Manual* § 835 (1983).

On Apr. 8, 1943, the Clerk read a provision of a bill containing legislative and judiciary appropriations for 1944,[9] as follows:[10]

> Salaries of clerks of courts: For salaries of clerks of United States circuit courts of appeals and United States district courts, their deputies, and other assistants, $2,542,900: *Provided*, That the positions of deputy clerk of the United States district court at Springfield, Mass., Cumberland, Md. . . . and Pueblo, Colo., are hereby abolished and such provisions of law as require offices of clerks of courts to be maintained at such places are hereby repealed.

The following points of order were then made:[11]

> MR. [FRANCIS E.] WALTER [of Pennsylvania]: Mr. Chairman, I make the point of order that the material contained in line 20, page 55, down to the end of the paragraph on page 56, line 11, is legislation on an appropriation bill.
>
> MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Chairman, I make the point of order that there was no reservation made when this bill was introduced with reference to points of order, and the Record will bear me out. Therefore a point of order against anything in the bill now is not in order.
>
> The Chairman[12] subsequently ruled as follows:[13]

> The Chair is prepared to rule, if there is no withdrawal of the points of order.
>
> In this connection the Chair feels that there is a duty upon all Members to read the rules, which are published. This is not just mere custom, as the Chair sees it.
>
> The Journal discloses that there were no points of order reserved on the pending bill when it was reported to the House on April 6, 1943.
>
> The Chair has been very deeply impressed with the decisions on this question which run back to 1837, particularly an opinion expressed by Chairman Albert J. Hopkins, of Illinois, on March 31, 1896—Hinds' Precedents, volume V, section 6923—in which it was stated:
>
> > In determining this question the Chair thinks it is important to take into consideration the organization and power of the Committee of the Whole, which is simply to transact such business as is referred to it by the House. Now, the House referred the bill under consideration to this Committee as an entirety, with directions to consider it. The objection raised by the gentleman from North Dakota would, in effect, cause the Chair to take from the Committee the consideration of part of this bill, which has been committed to it by the House. The Committee has the power to change or modify this bill as the Members, in their wisdom, may deem wise and proper, but it is not for the Chairman, where no points of order were reserved in the House against the bill. . . . The effect would be, should the Chair sustain the point of order made by the gentleman from North Dakota, to take from the consideration of the Committee of the Whole a part of this bill which has been committed to it by the House without reservation of this right to the Chairman.

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9. H.R. 2409.

10. 89 CONG. REC. 3150, 78th Cong. 1st Sess.

11. *Id.* at pp. 3150, 3151.

12. James P. McGranery (Pa.).

13. 89 CONG. REC. 3153, 78th Cong. 1st Sess.

Hopkins then held that he had no authority to sustain a point of order against an item in the bill.

The present occupant of the chair feels constrained to follow the precedents heretofore established and sustains the point of order made by the gentleman from Missouri (Mr. Cochran).

Note: On occasion, a Member has by unanimous consent reserved points of order against an appropriation bill already reported and referred to the Calendar.[14]

Reservation of Points of Order Against Amendments

§ 2.2 The reservation of a point of order against an amendment to an appropriation bill is within the discretion of the Chair. Thus, even though a Member states that he "will reserve a point of order" and then seeks the Chair's recognition to speak in opposition to the amendment, the Chair may dispose of the point of order first.

On June 6, 1963,[15] The Committee of the Whole was considering H.R. 6754, a Department of Agriculture appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. [Paul] Findley [of Illinois]: Page 33, after line 12, insert the following:

"Sec. 607. None of the funds provided herein shall be used to pay the salary of any officer or employee who negotiates agreements or contracts or in any other way, directly or indirectly, performs duties or functions incidental to supporting the price of Upland Middling Inch cotton at a level in excess of 30 cents a pound."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I make a point of order against the amendment, but I will reserve the point of order at this time.

THE CHAIRMAN:[16] The gentleman from Mississippi reserves the point of order.

The Chair recognizes the gentleman from Illinois. . . .

MR. WHITTEN: Mr. Chairman, I rise in opposition to the amendment.

MR. [PAUL C.] JONES of Missouri: Mr. Chairman, I want to speak on the point of order.

THE CHAIRMAN: Does the gentleman from Mississippi [Mr. Whitten] press his point of order?

MR. WHITTEN: I will not press it for the moment and yield to the gentleman from Missouri [Mr. Jones].

THE CHAIRMAN: The gentleman from Missouri has indicated he desires to be heard on the point of order which has not been made.

MR. WHITTEN: Mr. Chairman, I make the point of order, if I may.

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14. See 86 CONG. REC. 1991, 76th Cong. 3d Sess., Feb. 26, 1940.

15. 109 CONG. REC. 10411, 10412, 88th Cong. 1st Sess.

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

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

MR. WHITTEN: Mr. Chairman, I make the point of order on the basis that the prohibition that would be set up here would require new duties to be performed in determining who negotiates, whether their actions constitute negotiations, or whether their actions in any of these particulars are in such a manner as to have their salaries not paid, particularly in view of other laws which require that employees of the Federal Government be paid certain specified sums.

Mr. Chairman, it does call for new duties and there is no limitation in its entirety.

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

MR. JONES of Missouri: I desire to be heard, Mr. Chairman, on the point of order. . . . Mr. Chairman, I contend this is legislation on an appropriation bill because it would prohibit the Secretary from carrying out the duties and the authority that he has under legislation that has not been changed. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Illinois [Mr. Findley] has offered an amendment which provides for the insertion of a new section, which amendment provides in words that none of the funds provided in the pending bill shall be used to pay the salary of any officer or employee who does certain things.

In the opinion of the Chair, that constitutes within the rules of the House a limitation on the funds being appropriated and is a proper form of limitation. Therefore, the Chair overrules the point of order.

Effect of Conceding Point of Order

§ 2.3 Where a point of order is made against language in an appropriation bill and the point is conceded by the Member handling the bill, the Chair normally sustains the point of order.

On Apr. 12, 1960,[17] the Committee of the Whole was considering H.R. 11666, a State, Justice, and Judiciary Departments appropriation bill. The following proceedings took place:

> For expenses necessary for permanent representation. . . $1,850,000.
>
> MR. [H.R.] GROSS [of Iowa]: Mr. Chairman, I make a point of order against the language on page 7 beginning with line 1 and running through line 12 on the ground that it contains an appropriation not authorized by law.
>
> Mr. Chairman, I call your attention to page 7 of the report on the pending bill, H.R. 11666, which states:
>
>> The following table sets forth the amounts allowed for each organization.
>
> Item 7 provides $30,000 for the Interparliamentary Union.
>
> Mr. Chairman, I also call your attention to page 1035 of the hearings and the justification for this appropriation, from which I read as follows:
>
>> The act of June 28, 1935, as amended by Public Law 409, ap-

17. 106 CONG. REC. 7941, 86th Cong. 2d Sess.

proved February 6, 1948 (22 U.S.C. 276), authorizes an amount of $15,000 to assist in meeting the expenses of the American group of the Interparliamentary Union for each fiscal year.

I further read from the justification to be found on the same page:

Although the enabling legislation authorizes an appropriation of $15,000, there is included in this request $30,000.

Mr. Chairman, I make the point of order that this violates rule 21, paragraph 2, of Cannon's Procedures which provides that no appropriation shall be made without prior authorization.

THE CHAIRMAN:[18] Does the gentleman from New York desire to be heard on the point of order?

MR. [JOHN J.] ROONEY [of New York]: . . . It is the fact, and we concede, that the Interparliamentary Union, which has been in existence for some 70-odd years, does not have an authorization for expenditure beyond $15,000 per annum, whereas the newly created NATO Interparliamentary Union and the Canadian Interparliamentary Union have authorizations for $30,000. . . .

Mr. Chairman, I am now constrained to concede that the point of order is well taken and I shall immediately offer an amendment.

THE CHAIRMAN: The point of order is conceded and sustained.

Point of Order Against Part of Paragraph

§ 2.4 Where a point of order is made against an entire paragraph in an appropriation bill on the ground that a portion thereof is in conflict with the rules of the House and the point of order is sustained, the entire paragraph is eliminated.

On July 23, 1970,[19] during consideration in the Committee of the Whole of the Departments of Labor and Health, Education, and Welfare appropriation bill (H.R. 18515) the following proceedings occurred:

MR. [DURWARD G.] HALL [of Missouri]: Mr. Chairman, a point of order.

THE CHAIRMAN:[20] The gentleman will state it.

MR. HALL: Mr. Chairman, I make a further point of order under this title and under the heading "Office of Economic Opportunity," on page 38, lines 1 through 25, including the colon after the word "grant", predicated upon the fact that this is further legislation in an appropriation bill and that it involves specifically, Mr. Chairman, the phrase on line 14 "and for purchase of real property for training centers:" and other legislation language which is foreign to an appropriation bill. . . .

MR. [CARL D.] PERKINS [of Kentucky]: Mr. Chairman, may I be heard on the point of order?

THE CHAIRMAN: The gentleman from Kentucky will be heard.

MR. PERKINS: Mr. Chairman, if I understand the point of order raised by

18. W. Homer Thornberry (Tex.).

19. 116 CONG. REC. 25634, 91st Cong. 2d Sess.

20. Chet Holifield (Calif.).

the gentleman from Missouri, the gentleman moved to strike the language on page 38 from what line through what line?

MR. HALL: The Chair has just repeated it. Line 1, including the title and the heading, down through the colon following the word "grant."

MR. PERKINS: Mr. Chairman, if I may be heard further, lines 1 through 5 including the amount authorized and appropriated, $2,046,200,000, follows the language in the authorization bill. We do have some new language commencing on lines 14 through 15 that is not in the authorization bill presently, but this is the language that has been carried on previous appropriation bills. The language that I specifically refer to that is not in the authorization bill is on line 14 after "1964," commencing with "and for purchase of real property for training centers."

Now, this language is not in the authorization bill.

The language commencing on line 18 and the rest of the paragraph down to line 21 is language on an appropriation bill, in my judgment, because there is nothing in the authorization bill. But we certainly do not want the amount that is appropriated for the economic opportunity act stricken from this bill. It is in strict compliance with the authorization amendment.

THE CHAIRMAN: The Chair is ready to rule.

There are ample precedents for ruling a complete paragraph out of order, if any part of that paragraph is out of order. The gentleman from Kentucky has conceded that part of it is not in order, and therefore the Chair sustains the point of order made by the gentleman from Missouri (Mr. Hall).

§ 2.5 When part of a paragraph is subject to be stricken on a point of order as being legislation, the entire paragraph is subject to the point of order.

On May 11, 1960,[1] During consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 12117) the following proceedings occurred:

The Clerk read as follows:

Marketing services: For services relating to agricultural marketing and distribution, for carrying out regulatory acts connected therewith, and for administration and coordination of payments to States, $26,838,000 . . . *Provided*, That the Department is hereby authorized and directed to make such inspection of poultry products processing plants as it deems essential to the protection of public health and to permit the use of appropriate inspection labels where it determines from such inspection that such plants operate in a manner which protects the public health, and not less than $500,000 shall be available for this purpose.

MR. [JOHN D.] DINGELL [Jr., of Michigan]: Mr. Chairman, I make a

1. 106 CONG. REC. 10032, 86th Cong. 2d Sess. See also 107 CONG. REC. 19726, 87th Cong. 1st Sess., Sept. 15, 1961 (proceedings relating to H.R. 9169); and 83 CONG. REC. 652, 75th Cong. 3d Sess., Jan. 17, 1938 (proceedings relating to H.R. 8947, a Treasury and Post Office Departments appropriation bill.

point of order against the language beginning in line 2, page 17, commencing with the word "*Provided*," right down through the end of that paragraph on page 17, line 9.

This constitutes legislation on an appropriation bill.

MR. [FRED] MARSHALL [of Minnesota]: Mr. Chairman, I make a point of order against the entire paragraph, beginning in line 15, page 16, through line 9 on page 17, on the ground it is legislation on an appropriation bill.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, the committee does not care to oppose the point of order. I do not think there is any question but what points of order lie.

THE CHAIRMAN:[2] The gentleman from Mississippi concedes both points of order. The Chair sustains the point of order of the gentleman from Minnesota and the entire paragraph is ruled out as legislation.

§ 2.6 Where a point of order is made against an entire proviso on the ground that a portion of it is subject to the point of order, and the point of order is sustained, the entire proviso is eliminated.

On Apr. 16, 1943,[3] The Committee of the Whole was considering H.R. 2481, an Agriculture Department appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

To enable the Secretary to carry into effect the provisions of sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act . . . not to exceed $50,000 for the preparation and display of exhibits. . . . *Provided further*, That in order to effect (specified reductions) such part of the funds available for salaries and administrative expenses shall be transferred under section 11 of the Soil Conservation and Domestic Allotment Act of February 29, 1936, as amended, to the existing extension services of the land-grant colleges in the several States to enable them to carry out all necessary educational, informational, and promotional activities in connection with such programs in these States and no other funds than those so transferred shall be expended for such activities . . . *Provided further*, That notwithstanding any other provision of law, persons who in 1943 carry out farming operations as tenants or sharecroppers on cropland owned by the United States Government and who comply with the terms and conditions of the 1943 agricultural conservation program, formulated pursuant to sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, shall be entitled to apply for and receive payments, or to retain payments heretofore made, for their participation in said program to the same extent as other producers. . . .

MR. [HAMPTON P.] FULMER [of South Carolina]: Mr. Chairman, a point of order.

THE CHAIRMAN:[4] The gentleman will state it.

MR. FULMER: On Page 65, beginning in line 9, with the words "*Provided further*," I make a point of order against

2. Paul J. Kilday (Tex.).

3. 89 CONG. REC. 3491–94, 78th Cong. 1st Sess.

4. William M. Whittington (Miss.).

all of that section down to line 18, including the word "activities," the language reading, "*Provided further,*" That in order to effect such 50-percent reduction such part of the funds available for salaries and administrative expenses shall be transferred under section 11 of the Soil Conservation and Domestic Allotment Act of February 29, 1936, as amended, to the existing extension services of the land-grant colleges in the several States to enable them to carry out all necessary educational, informational, and promotional activities in connection with such programs in these States and no other funds than those so transferred shall be expended for such activities"; that it is the legislation on an appropriation bill without authorization. I make that point of order. . . .

THE CHAIRMAN: The gentleman has other points of order against the paragraph?

MR. FULMER: Yes.

THE CHAIRMAN: Will the gentleman indicate those?

MR. FULMER: On page 67, line 16, down to and including line 3 on page 68, which language is as follows: "*Provided further,* That notwithstanding any other provision of law, persons who in 1943 carry out farming operations as tenants or sharecroppers on cropland owned by the United States Government and who comply with the terms and conditions of the 1943 agricultural conservation program, formulated pursuant to sections 7 to 17 inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, shall be entitled to apply for and receive payments, or to retain payments heretofore made, for their participation in said program to the same extent as other producers: *And provided further,* That no part of such amount shall be available for carrying out the provisions of section 202 (a) to (f) of the Agricultural Adjustment Act of 1938," on the ground that it is legislation on an appropriation bill without any authorization in law. . . .

MR. [SCHUYLER OTIS] BLAND [of Virginia]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. BLAND: Mr. Chairman, if a part of a paragraph or section in a bill is subject to a point of order and a point of order is made to the paragraph or section, does that not carry out the entire paragraph or section?

THE CHAIRMAN: The gentleman is correct.

MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. Chairman, for clarification, the point of order was not made against the entire paragraph as I understand it.

THE CHAIRMAN: The entire proviso. That is what the gentleman had in mind?

MR. BLAND: Yes. . . .

THE CHAIRMAN: The Chair is ready to rule on the first point of order submitted by the gentleman from South Carolina [Mr. Fulmer]. . . .

The gentleman from Illinois concedes that the point of order is sound and well taken for that part of the proviso beginning after the word "States" in line 15, as follows: "to enable them to carry out all necessary educational, informational, and promotional activities, that it is subject to the point of order, being legislation upon an appropriation bill.

If any part of the proviso is subject to a point of order, the whole proviso falls, therefore the Chair sustains the point of order made by the gentleman from South Carolina [Mr. Fulmer]. . . .

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, I understood there was a point of order against another portion of the paragraph, the concluding proviso. I only wish to be heard at this time on the point of order as far as it relates to the concluding proviso, that is, on page 68, line 1:

> That no part of such amount shall be available for carrying out the provisions of section 202 (a) to (f) of the Agricultural Adjustment Act of 1938.

Those are the provisions of the Agricultural Adjustment Act of 1938 which make available $4,000,000 from this fund for the maintenance of the four regional laboratories. We have already appropriated in a preceding paragraph of the bill $4,000,000, from the Federal Treasury and not from this fund for those laboratories. For that reason, it became necessary to provide that the same amount should not again be made available from this particular fund, which would result in $8,000,000 being made available to the four regional laboratories when no such amount was estimated therefor.

This is a limitation under the Holman rule. This simply limits the expenditures which are authorized under this paragraph, so that this appropriation which has already been made in a preceding paragraph of the bill cannot be duplicated from these funds.

MR. FULMER: Mr. Chairman, after rereading this provision and hearing the gentleman's argument, I confine my point of order to the proviso on page 67 beginning in line 16 and running down through line 25, ending with the word "producers." . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from South Carolina makes the point of order against the language beginning in line 16 and running down to and including the word "producers" in line 25 that it is legislation on an appropriation bill. With the information available to the Chair, the Chair is of the opinion that it is legislation on an appropriation bill, and sustains the point of order.

§ 2.7 A point of order may be made against part of a paragraph which, if sustained, would not necessarily affect the remainder of such paragraph unless a point of order were specifically made against the entire paragraph.

On Mar. 30, 1954,[5] the Committee of the Whole was considering H.R. 8583, an independent offices appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

> Capital grants for slum clearance and urban redevelopment: For an additional amount for payment of capital grants as authorized by title I of the Housing Act of 1949, as amended (42 U.S.C. 1453, 1456), $39,000,000, to remain available until expended: *Pro-*

5. 100 CONG. REC. 4108, 4109, 83d Cong. 2d Sess.

vided, That no funds in this or any other act shall be available for payment of capital grants under any contract involving the development or redevelopment of a project for predominantly residential uses unless incidental uses are restricted to those normally essential for residential uses: *Provided further*, That before approving any local slum clearance program under title I of the Housing Act of 1949, the Administrator shall give consideration to the efforts of the locality to enforce local codes and regulations relating to adequate standards of health, sanitation, and safety for dwellings and to the feasibility of achieving slum clearance objectives through rehabilitation of existing dwellings and areas: *Provided further*, That the authority under title I of the National Housing Act shall be used to the utmost in connection with slum rehabilitation needs.

MR. [JACOB K.] JAVITS [of New York]: Mr. Chairman, I make a point of order against the proviso appearing on page 28, lines 13 to 18, on the ground it is legislation on an appropriation bill.

THE CHAIRMAN:[6] Does the gentleman from California desire to be heard on the point of order?

MR. [JOHN] PHILLIPS [of California]: No, Mr. Chairman. I think we are compelled to concede the point of order and I submit an amendment to replace it. . . .

THE CHAIRMAN: The Chair sustains the point of order.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. WHITTEN: Mr. Chairman, is it possible to make a point of order to one part of a paragraph and have it limited to that particular part?

THE CHAIRMAN: A Member may make a point of order to any objectionable language in the paragraph.

MR. WHITTEN: Separating it from the remainder of the paragraph?

THE CHAIRMAN: Yes.

Timeliness—Objection to Consideration

§ 2.8 A point of order against consideration of a general appropriation bill, on grounds that the total of proposed appropriations exceeds the total amount authorized, will not lie in the House. The proper time to demand enforcement of Rule XXI clause 2 (the rule against reporting appropriations not previously authorized) is when such item is read for amendment in the Committee of the Whole.

On Sept. 8, 1965,[7] the following proceedings occurred in the House:

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the

6. Louis E. Graham (Pa.).

7. 111 CONG. REC. 23140, 23141, 89th Cong. 1st Sess.

State of the Union for the consideration of the bill (H.R. 10871) making appropriations for foreign assistance and related agencies for the fiscal year ending June 30, 1966, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the bill be limited to 3 hours, one-half of that time to be controlled by the gentleman from Kansas [Mr. Shriver] and one-half to be controlled by myself.

THE SPEAKER:[8] Is there objection to the request of the gentleman from Louisiana?

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, reserving the right to object, at the proper time I shall ask for recognition to make a point of order against consideration of the bill. I should like to be advised as to that time.

THE SPEAKER: The Chair will say that if the unanimous-consent request is granted the gentleman may then assert whatever he wants to under the rules.

Is there objection to the request of the gentleman from Louisiana?

There was no objection.

MR. GROSS: Mr. Speaker, I make the point of order against consideration of this bill on the ground that in adoption of the conference report by the Congress, and with the signature of the President of the United States now a fact, and, therefore, the authorization bill is law, it includes a new section, section 649, which reads as follows:

> Limitation on aggregate authority for use in the fiscal year 1966. . . .

THE SPEAKER: What is the number of that section?

MR. GROSS: Section 649.

THE SPEAKER: Of the authorization bill?

MR. GROSS: Of the authorization bill, which reads as follows:

> Notwithstanding any other provision of this act, the aggregate of the total amount authorized to be appropriated for use during the fiscal year 1966 for furnishing assistance and for administrative expenses under this act shall not exceed $3,360 million. . . .

The limitation contained in the conference report, which is now law, is $3,360 million. The report accompanying this bill states clearly there is sought to be appropriated by this bill $3,630,622,000.

MR. PASSMAN: . . . Mr. Speaker, I should like to direct attention to the fact that the authorization bill limited new appropriations to $3,360 million. We are only recommending new appropriations in the amount of $3,285 million which is $75 million below the amount authorized.

Under section 645 of the basic act, and I quote:

> Unexpended balances: Funds made available pursuant to this Act, the Mutual Security Act of 1955, as amended, Public Law 86–735, are hereby authorized to be continued available for the general purposes for which appropriated and may at any time be consolidated and in addition may be consolidated with appropriations made available for the same general purposes under the authority of this Act.

Mr. Speaker, this is the basic legislation.

If I may make one further observation, Mr. Speaker, a good part of the section that the gentleman is referring

8. John W. McCormack (Mass.).

to has to do with no-year funds anyway. The no-year funds in which the appropriation or unexpended balance is automatically carried forward would be $120,978,000. We have moved on the premise that the original basic act authorized the continuation of the unexpended or unobligated funds from previous years. . . .

MR. GROSS: Mr. Speaker, I would point out the new section inserted in the authorization bill which has been read, and I am sure the Speaker understands it thoroughly, makes no provision for new funds. It says explicitly, "notwithstanding any other provision of this Act, the limitation is $3,360 million."

THE SPEAKER: The Chair is prepared to rule.

Without passing upon the question, that might arise later on, if it does, the Chair is of the opinion that the point of order should be made against the item or items in the appropriation bill which the gentleman from Iowa might claim to be in excess of the amount authorized by law, and not against the consideration of the bill itself.

The Chair overrules the point of order.

The question is on the motion.

§ 2.9 A point of order against an unauthorized appropriation does not lie in the House against consideration of a special appropriation bill made in order pursuant to a rule reported from the Committee on Rules.

Where the House had agreed to a resolution providing for consideration of a joint resolution making temporary appropriations, an objection to consideration of the joint resolution on the ground that the authorization for the appropriations therein had expired was held not to be in order. The proceedings on Aug. 21, 1951,[9] during which the House was considering House Resolution 397, making in order the consideration of House Joint Resolution 320, were as follows:

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I call up the resolution (H. Res. 397) which I submitted earlier in the day, making in order House Joint Resolution 320, and ask for its immediate consideration.

The Clerk read the resolution as follows:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 320) amending an act making temporary appropriations for the fiscal year 1952, and for other purposes. . . . At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to

9. 97 CONG. REC. 10479–81, 82d Cong. 1st Sess. See also § 2.8, supra. The point of order based on lack of authorization only lies against an item in a general appropriation bill when that item is read for amendment in Committee of the Whole under the five-minute rule.

the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

THE SPEAKER:[10] The question is, Will the House consider the resolution?

The question was taken; and (two-thirds having voted in favor thereof) the House decided to consider the joint resolution. . . .

[The resolution was subsequently agreed to.][11]

MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 320) amending an act making temporary appropriations for the fiscal year 1952, and for other purposes.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I make a point of order against consideration of the joint resolution on the ground that the authorization has expired, and that there is no authorization for this appropriation.

THE SPEAKER: The resolution just adopted makes in order the consideration of the joint resolution, and, therefore, the point of order does not lie.

The Chair overrules the point of order.

Point of Order During Reading

§ 2.10 A point of order against a paragraph of a general appropriation bill on the ground that it is legislation will not lie until the paragraph is read; and such a point of order is not precluded by the fact that, by unanimous consent, an amendment was offered to the paragraph before it was read.

On July 31, 1969,[12] during consideration in the Committee of the Whole of the Departments of Labor and Health, Education, and Welfare appropriation bill (H.R. 13111) the following proceedings took place:

The Clerk read as follows:

Sec. 409. No part of the funds contained in this Act shall be used to force busing of students, the abolishment of any school or the attendance of students at a particular school as a condition precedent to obtaining Federal funds otherwise available to any State, school district, or school.

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, I raise the point of order on section 409 on page 56 of the bill that this is legislation on an appropriation bill. It violates section 834 of the House rules. It does not comply with the Holman rule. It is not a retrenchment. In fact, it adds additional burdens and additional duties, just as the Chair ruled against my amendment to section 408 because it would require additonal personnel to determine whether busing has been

10. Sam Rayburn (Tex.).

11. 97 CONG. REC. 10481, 82d Cong. 1st Sess.

12. 115 CONG. REC. 21677, 21678, 91st Cong. 1st Sess.

used, one, for the abolishing of any school and, two, to require the attendance of any student at any particular school. You would have to have investigators there to determine this as a condition precedent to obtaining Federal funds otherwise available to any State school district or school. No. 1, for the abolition of any school, and No. 2, whether the attendance of any student at any particular school could be investigated there to determine this as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

Therefore, Mr. Chairman, I urge the Chairman to sustain the point of order.

THE CHAIRMAN:[13] Does the gentleman from Mississippi desire to be heard on the point of order?

MR. [JAMIE L.] WHITTEN [of Mississippi]: I do, Mr. Chairman.

Mr. Chairman, I raised the point awhile ago that the gentleman, having asked unanimous consent that the amendments to the two sections be considered en bloc and having obtained that unanimous-consent request, and after having the amendments considered en bloc in connection with the two sections, that the House has already considered section 409 and the point of order comes too late. That is the situation on the one hand.

Second, a reading of the section clearly shows that the House has already considered section 409 in connection with the prior amendments. In addition to that, this is clearly a limitation on an appropriation bill and does not have to conform to the Holman rule. . . .

THE CHAIRMAN: The Chair is ready to rule.

The objection of the gentleman from Mississippi which has been made to the effect that this section had been considered when, by unanimous consent amendments to the two sections were considered, does not nullify the fact that section 409 had not been read. Therefore, when section 409 was read it was subject to points of order.

§ 2.11 A point of order against a paragraph of a general appropriation bill is not in order until that paragraph is read; and the Chairman has declined to recognize a Member to make a point of order against both paragraphs of a particular section when only the first of such paragraphs has been read.

On June 4, 1970,[14] during consideration in the Committee of the Whole of the foreign assistance appropriation bill (H.R. 17867) the following proceedings occurred:

The Clerk read as follows:

Sec. 107. (a) No assistance shall be furnished under the Foreign Assistance Act of 1961, as amended, to any country which sells, furnishes, or permits any ships under its registry to carry to Cuba, so long as it is governed by the Castro regime, in addition to those items contained on the list maintained by the Administrator pursuant to title I of the Mutual Defense Assistance Control Act of 1951, as amended, any arms, ammunition, implements of war, atomic energy

13. Chet Holifield (Calif.).

14. 116 CONG. REC. 18403, 91st Cong. 2d Sess.

materials, or any other articles, materials or supplies of primary strategic significance used in the production of arms, ammunition, and implements of war or of strategic significance to the conduct of war; including petroleum products.

MR. [PETER H. B.] FRELINGHUYSEN [of New Jersey]: Mr. Chairman, I make a point of order against section 107(a) on the ground that it is legislation in an appropriations bill.

THE CHAIRMAN:[15] Does the gentleman make his point of order against the entire section?

MR. FRELINGHUYSEN: When I get the opportunity, I shall certainly make the point of order against section (b) also. If it is in order, I shall be glad to make the point of order against both sections (a) and (b) at this time.

THE CHAIRMAN: The Chair would prefer to rule on the sections separately. The gentleman has made a point of order against section 107(a). The Chair will hear the gentleman.

§ 2.12 A point of order against language in a general appropriation bill comes too late after the reading of the subsequent paragraph.

On June 6, 1963,[16] during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 6754) proceedings occurred as indicated below:

MR. [PAUL] FINDLEY [of Illinois]: Mr. Chairman, I make the point of order against the language on page 17, line 5, beginning with the word "and" and all that follows through the period on line 11, on the ground it is legislation on a general appropriation bill.

THE CHAIRMAN:[17] The Chair may say to the gentleman from Illinois that his point of order comes too late. The Clerk has reached page 19.

Bill Considered as Read

§ 2.13 Where all of a general appropriation bill (and not just the portion not yet read), was, by unanimous consent, considered as read and open to points of order and amendment at any point, the Chairman sustained a point of order against a provision conceded to be legislation in a paragraph which had been passed in reading for amendment when the unanimous-consent request was agreed to.

On June 7, 1972,[18] during consideration in the Committee of the Whole of the District of Columbia appropriation bill (H.R. 15259), the following proceedings occurred:

The Clerk read as follows:

GENERAL OPERATING EXPENSES

General operating expenses, $65,029,000, of which $629,700 shall

15. Hale Boggs (La.).

16. 109 CONG. REC. 10398, 88th Cong. 1st Sess. See also 109 CONG. REC. 24752, 88th Cong. 1st Sess., Dec. 16, 1963 (H.R. 9499).

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

18. 118 CONG. REC. 19900, 19901, 92d Cong. 2d Sess.

be payable from the highway fund (including $72,400 from the motor vehicle parking account), $94,500 from the water fund, and $67,300 from the sanitary sewage works fund. . . .

MR. [WILLIAM H.] NATCHER [of Kentucky] (during the reading): Mr. Chairman, I ask unanimous consent that the bill be considered as read, open to amendment at any point, and subject to any points of order.

THE CHAIRMAN:[19] Is there objection to the request of the gentleman from Kentucky?

There was no objection.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Chairman, I raise a point of order.

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

MR. HALL: Mr. Chairman, my point of order should lie on page 3, line 8, following the colon, against the phrase:

> *Provided*, That the certificates of the Commissioner (for $2,500) and of the Chairman of the City Council (for $2,500) shall be sufficient voucher for expenditures from this appropriation for such purposes, exclusive of ceremony expenses, as they may respectively deem necessary:

In other words, Mr. Chairman, I am raising a point of order against all after the colon on line 8, through the colon on line 13.

This was not authorized, and it is an appropriation bill without authorization.

THE CHAIRMAN: The Chair will state to the gentleman from Missouri that that part of the bill to which the gentleman has raised his point of order was previously read prior to the unanimous-consent request.

MR. HALL: But, Mr. Chairman, I submit that the unanimous-consent request was granted to the entire bill, that it be open to amendment and open for points of order at any point. This request was granted and therefore I have gone back to this point of order.

THE CHAIRMAN: Does the gentleman from Kentucky desire to be heard on the point of order raised by the gentleman from Missouri?

MR. NATCHER: Mr. Chairman, the gentleman from Missouri [Mr. Hall] is correct, and we concede the point of order.

THE CHAIRMAN: The point of order is conceded, and the point of order is sustained.

Are there any further points of order?

Are there any amendments to be proposed?

Bill Opened for Amendment at Any Point

§ 2.14 Where an appropriation bill partially read for amendment is then opened for amendment "at any point" (rather than for "the remainder of the bill"), points of order to paragraphs already read may yet be entertained.

On June 7, 1972,[20] in a paragraph appropriating funds for

19. Dante B. Fascell (Fla.).

20. 118 CONG. REC. 19900, 19901, 92d Cong. 2d Sess.

general operating expenses for the District of Columbia, a proviso stating that certificates of the Commissioner and Chairman of the City Council shall be sufficient vouchers for expenditure from that appropriation was conceded to be legislation in violation of Rule XXI clause 2 and was ruled out on a point of order. The part of the bill against which the point of order was directed had been read prior to a unanimous-consent request that the bill be open for amendment at any point.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Chairman, I raise a point of order.

THE CHAIRMAN:[1] The gentleman from Missouri will state his point of order.

MR. HALL: Mr. Chairman, my point of order should lie on page 3, line 8, following the colon, against the phrase:

> *Provided*, That the certificate of the Commissioner (for $2,500) and of the Chairman of the City Council (for $2,500) shall be sufficient voucher for expenditures from this appropriation for such purposes, exclusive of ceremony expenses, as they may respectively deem necessary. . . .

In other words, Mr. Chairman, I am raising a point of order against all after the colon on line 8, through the colon on line 13.

This was not authorized, and it is an appropriation bill without authorization.

THE CHAIRMAN: The Chair will state to the gentleman from Missouri that that part of the bill to which the gentleman has raised his point of order was previously read prior to the unanimous-consent request.

MR. HALL: But, Mr. Chairman, I submit that the unanimous-consent request was granted to the entire bill, that it be open to amendment and open for points of order at any point. This request was granted and therefore I have gone back to this point of order.

THE CHAIRMAN: Does the gentleman from Kentucky desire to be heard on the point of order raised by the gentleman from Missouri?

MR. [WILLIAM H.] NATCHER [of Kentucky]: Mr. Chairman, the gentleman from Missouri (Mr. Hall) is correct, and we concede the point of order.

THE CHAIRMAN: The point of order is conceded, and the point of order is sustained.

Are there any further points of order?

Are there any amendments to be proposed?[2]

§ 2.15 Where the Committee of the Whole has granted unanimous consent that the remainder of a general appropriation bill be considered as read and open to points of order or amendment at any point, the Chair first inquires whether any Member desires to raise a point of order against any portion of

1. Dante B. Fascell (Fla.).

2. See also 119 CONG. REC. 20068, 93d Cong. 1st Sess., June 18, 1973 [H.R. 8658].

the pending text, and then recognizes Members to offer amendments to that text.

On Feb. 19, 1970,[3] during consideration in the Committee of the Whole of the Departments of Labor and Health, Education, and Welfare appropriation bill (H.R. 15931) the following proceedings occurred:

MR. [DANIEL J.] FLOOD [of Pennsylvania] (during the reading): Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read and open to points of order or amendment at any point.

THE CHAIRMAN:[4] Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

THE CHAIRMAN: Are there any points of order?

MR. [JAMES G.] O'HARA [of Michigan]: Mr. Chairman, I rise to make a point of order against the language contained in section 411, beginning on line 12, through line 20 on page 61, which reads as follows:

> Sec. 411. In the administration of any program provided for in this Act, as to which the allocation, grant, apportionment, or other distribution of funds among recipients is required to be determined by application of a formula involving the amount appropriated or otherwise made available for distribution, the amount available for expenditure or obligation (as determined by the President) shall be substituted for the amount appropriated or otherwise made available in the application of the formula.

Mr. Chairman, I make the point of order on the ground that the section in question constitutes legislation on an appropriation bill and does not come within the exception.

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

MR. FLOOD: Mr. Chairman, the language is patently legislation on an appropriation bill. I concede the point of order.

THE CHAIRMAN: The gentleman from Pennsylvania concedes the point of order, and the Chair sustains the point of order.

MR. [NEAL] SMITH of Iowa: Mr. Chairman, I make a point of order against the language on page 57, lines 9 through 16, which reads as follows:

> *Provided further,* That those provisions of the Economic Opportunity Amendments of 1967 and 1969 that set mandatory funding levels, including mandatory funding levels for the newly authorized programs for alcoholic counseling and recovery and for drug rehabilitation, shall be effective during the fiscal year ending June 30, 1970: *Provided further,* That of the sums appropriated not less than $22,000,000 shall be used for the family planning program.

Mr. Chairman, I make the point of order on the ground that it is legislation on an appropriation bill.

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

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3. 116 CONG. REC. 4019, 91st Cong. 2d Sess. See also § 2.22, infra, as to the proper time for making points of order against provisions of the bill where the bill is considered as read and open to points of order and amendments at any point.

4. Chet Holifield (Calif.).

MR. SMITH of Iowa: Mr. Chairman, the point of order is that it is legislation on an appropriation bill.

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

MR. FLOOD: Not on this point, Mr. Chairman; no.

THE CHAIRMAN: Does the gentleman from Michigan seek recognition on this point of order:

MR. O'HARA: I do, Mr. Chairman.

Mr. Chairman, it seems to me the amendment simply restates existing law in the authorizing legislation, and if that is indeed the case, I do not think it is subject to a point of order.

THE CHAIRMAN: The Chair will say that if this restates existing law, there is no point in it being in the bill, and the fact that it is in the bill on its face would indicate there must be legislation in it in addition to that contained in existing law. The Chair, therefore, sustains the point of order.

Are there any further points of order?

The Chair will recognize at this time Members who wish to offer amendments.

§ 2.16 A point of order against language in an appropriation bill comes too late when the Committee of the Whole has granted unanimous consent that the remainder of the bill be considered as read and open at any point to points of order or to amendments and the Chairman has asked for amendments after having asked for points of order.

On Aug. 19, 1949,[5] the Committee of the Whole was considering H.R. 6008, a supplemental appropriation bill. The proceedings were as follows:

MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read and be open at any point to points of order and amendments.

THE CHAIRMAN:[6] Is there objection to the request of the gentleman from Michigan?

There was no objection.

THE CHAIRMAN: Are there any points of order?

If not, are there any amendments?

MR. [WILLIAM M.] WHEELER [of Georgia]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Wheeler: On page 6, line 17, strike out all the paragraph to and including all of lines 16 on page 7. . . .

MR. [JAMES P.] SUTTON [of Tennessee]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. SUTTON: Mr. Chairman, I make the point of order against the language on page 19 that it is legislation on an appropriation bill.

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5. 95 CONG. REC. 11870, 11876, 81st Cong. 1st Sess. See also § 2.22, infra, as to the proper time for making points of order against provisions of the bill where the bill is considered as read and open to points of order and amendments at any point.

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

THE CHAIRMAN: The point of order comes too late. At the time the further reading of the bill was dispensed with, the Chair requested Members desiring to make points of order to do so at that time.

After Request for Additional Debate

§ 2.17 After an amendment to an appropriation bill has been read by the Clerk and a reservation of objection has been made against a unanimous-consent request for an additional five minutes' debate, it has been held to be too late to raise a point of order against the amendment.

On Feb. 1, 1938,[7] The Committee of the Whole was considering H.R. 9181, a District of Columbia appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. [Everett M.] Dirksen [of Illinois]: On page 57, in line 19, strike out "$900,000" and insert in lieu thereof "$1,900,000."

MR. DIRKSEN: Mr. Chairman, I ask unanimous consent to proceed for an additional 5 minutes.

MR. [ROSS A.] COLLINS [of Mississippi]: Mr. Chairman, reserving the right to object——

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the amendment that this increase is not authorized by law.

THE CHAIRMAN:[8] The point of order of the gentleman from New York comes too late. A request has already been presented, and there has been a reservation of objection to it.

After Withdrawal of Reservation

§ 2.18 A point of order against an amendment to an appropriation bill does not come too late if made immediately after the withdrawal of a prior reservation of a point of order since the initial reservation of a point of order inures to all Members.

On Mar. 27, 1962,[9] the Committee of the Whole was considering H.R. 10904, a Department of Health, Education, and Welfare appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

HOSPITAL CONSTRUCTION ACTIVITIES

To carry out the provisions of title VI of the Act, as amended, $188,572,000. . . .

MR. [WILLIAM FITTS] RYAN of New York: Mr. Chairman, I offer an amendment.

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7. 83 CONG. REC. 1364, 75th Cong. 3d Sess.

8. William J. Driver (Ark.).

9. 108 CONG. REC. 5164, 5165, 87th Cong. 2d Sess.

The Clerk read as follows:

Amendment offered by Mr. Ryan of New York: On page 25, line 21, immediately before the period insert the following: "*Provided further,* That no part of the amounts appropriated in this paragraph may be used for grants or loans for any hospital, facility, or nursing home established, or having separate facilities, for population groups ascertained on the basis of race, creed, or color."

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

MR. RYAN of New York: Mr. Chairman and Members of the House, I rise to support an amendment which would provide a limitation upon the appropriations for hospital construction activities: that is, relating to page 25 of the bill.

Mr. Chairman, this amendment would prevent the use of funds appropriated under the Hill-Burton Act for hospital construction for segregated facilities.

The Hill-Burton program has provided Federal financing to help construct more than 2,000 medical care facilities in 11 Southern States. Since the inception of the Hill-Burton program these States have received $562,921,000 for hospital construction. Authorities have pointed out that virtually all of these institutions discriminate in various ways against Negro citizens. . . .

MR. JAMES C. DAVIS [of Georgia]: Mr. Chairman, is it in order for me at this time to make a point of order against the amendment?

THE CHAIRMAN:[10] The gentleman from Rhode Island has reserved his point of order. Does the gentleman from Rhode Island insist on the point of order?

MR. FOGARTY: Mr. Chairman, I waive the point of order. I have stated my reasons as to why the amendment should be defeated and I ask the committee to vote down the amendment.

MR. JAMES C. DAVIS: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state the parliamentary inquiry.

MR. JAMES C. DAVIS: Mr. Chairman, is it in order for me to make a point of order against the amendment?

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Chairman, does not the point of order come too late?

THE CHAIRMAN: The gentleman from Georgia is making a parliamentary inquiry at the present time.

MR. YATES: I beg pardon.

MR. JAMES C. DAVIS: Mr. Chairman, I was on my feet at the time the gentleman from Rhode Island was recognized and I was on my feet for the purpose of making a point of order against the amendment.

THE CHAIRMAN: The gentleman from Rhode Island being a member of the committee, the custom is that he be recognized first.

The Chair is ready to rule on the point of order.

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

THE CHAIRMAN: The gentleman will state it.

MR. YATES: Mr. Chairman, has not the point of order been waived by the gentleman from Rhode Island speaking to the question?

THE CHAIRMAN: The Chair understood that the gentleman from Rhode

10. Omar T. Burleson (Tex.).

Island was speaking to his point of order and insisted then on the defeat of the amendment.

MR. YATES: That is correct, Mr. Chairman, and, therefore, no point of order is proper at this time.

THE CHAIRMAN: The gentleman from Georgia [Mr. James C. Davis] now states he was on his feet attempting to press a point of order against the amendment, but the Chair had understood that the gentleman from Rhode Island did insist on his point of order. However, the Chair was in error as to that and the gentleman from Georgia is now recognized to make his point of order.

MR. YATES: Mr. Chairman, one final parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. YATES: Mr. Chairman, does not the point of order by the gentleman from Georgia come too late?

THE CHAIRMAN: Not under the circumstances. The Chair would assume there is a possibility of more than one point of order being made and for more than one reason.

The Chair recognizes the gentleman from Georgia.

MR. JAMES C. DAVIS: Mr. Chairman, I make a point of order against the amendment on the ground that it is legislation on an appropriation bill. . . .

THE CHAIRMAN: . . . The gentleman from New York has offered an amendment to which a point of order has been made. The language of the amendment to which a point of order has been raised is as follows:

> *Provided further*, That no part of the amounts appropriated in this paragraph may be used for grants or loans for any hospital, facility, or nursing home established, or having separate facilities, for population groups ascertained on the basis of race, creed, or color.

The Chair is of the opinion that the amendment is a proper limitation under the rules of the House and, therefore, overrules the point of order.

Upon Third Reading

§ 2.19 A point of order against language in an appropriation bill is not in order at the third reading of the bill in the House.

On June 6, 1963,[11] the Committee of the Whole was considering H.R. 6754, an Agriculture Department appropriation bill. The proceedings were as follows:

MR. [PAUL] FINDLEY [of Illinois]: Mr. Chairman, I make the point of order against the language on page 17, line 5, beginning with the word "and" and all that follows through the period on line 11, on the ground it is legislation on a general appropriation bill.

THE CHAIRMAN:[12] The Chair may say to the gentleman from Illinois that his point of order comes too late. The Clerk has reached page 19.

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

THE CHAIRMAN: The gentleman will state it.

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11. 109 CONG. REC. 10398, 10399, 88th Cong. 1st Sess.

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

MR. FINDLEY: Mr. Chairman, would it be in order to make a point of order on the third reading of the bill?

THE CHAIRMAN: No, it would not.

The Clerk read as follows: . . .

MR. FINDLEY: Mr. Chairman, I ask unanimous consent to return to page 17 for the purpose of making a point of order.

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

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I object.

Various Grounds for Objection

§ 2.20 Points of order were made against an entire title in an appropriation bill for the Atomic Energy Commission which included, in part, provisions for (1) the employment of aliens; (2) rental of space upon a determination of need by the Administrator of General Services; (3) use of unexpended balances of previous years; (4) transfer of sums to other agencies; (5) a sum to remain available until expended; (6) reappropriation of funds for plant and equipment; and (7) a power reactor project not authorized by law and the title was held to be in violation of Rule XXI clause 2.

On July 24, 1956,[13] during consideration in the Committee of the Whole of the second supplemental appropriation bill, a point of order was raised against a title containing provisions as described above. The proceedings were as follows:

MR. CLARENCE CANNON [of Missouri]: Mr. Chairman, I ask unanimous consent that the bill be considered as read and now be open to points of order and amendments to any part of the bill.

THE CHAIRMAN:[14] Is there objection to the request of the gentleman from Missouri?

There was no objection.

MR. CANNON: Mr. Chairman, I make a point of order against title I and also the item for the Bureau of Reclamation on page 7.

THE CHAIRMAN: Is the gentleman making a point of order against the entire title I?

MR. CANNON: Title I and the material indicated as well as on page 7.

THE CHAIRMAN: Let us pass on one point of order at a time, please. Does anybody wish to be heard on the point of order made by the gentleman from Missouri [Mr. Cannon] against title I?

MR. [WALTER H.] JUDD [of Minnesota]: On what basis is the point of order made?

MR. CANNON: Not authorized by law and is legislation on an appropriation bill.

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13. 102 CONG. REC. 14289, 84th Cong. 2d Sess.

14. Oren Harris (Ark.).

MR. JUDD: A lot of it is authorized by law.

MR. [JOHN] TABER [of New York]: Mr. Chairman, the items in title I, with the exception of the several provisos, are entirely within the statute and are authorized. I thought I had an understanding that the only item to go out was the $400 million item, but as long as the point of order is made on that, I will offer an amendment to cover everything except that last proviso after the point of order is disposed of.

MR. CANNON: Mr. Chairman, title I, in its entirety, is subject to a point of order. Part of the paragraph being subject to a point of order, the entire paragraph is subject to a point of order.

Title I is subject to a point of order on the ground that it is legislation on an appropriation bill.

THE CHAIRMAN: The Chair is prepared to rule. The gentleman from Missouri makes the point of order against title I of the pending bill on the ground that it is legislation on an appropriation bill or contains appropriations not authorized by law. The Chair has gone through title I and has observed that every paragraph in it either contains legislation on an appropriation bill, which is in violation of the rules of the House, or contains appropriations which are not authorized by law, which is also in violation of the rules of the House.

The Chair sustains the point of order.

Point of Order Too Late After Amendment Offered to Paragraph

§ 2.21 A point of order must be made against a paragraph of a general appropriation bill after it is read and before an amendment is offered thereto (even if the amendment is ruled out of order).

On June 22, 1983,[15] the Committee of the Whole had under consideration the Department of Transportation appropriation bill (H.R. 3329), when an amendment was offered and proceedings ensued as indicated below:

The Clerk read as follows:

Sec. 305. None of the funds provided under this Act for Formula grants shall be made available to support mass transit facilities, equipment, or operating expenses unless the applicant for such assistance has given satisfactory assurances in such manner and forms as the Secretary may require . . . that the rates charged elderly and handicapped persons during nonpeak hours shall not exceed one-half of the rates generally applicable to other persons at peak hours: *Provided*, That the Secretary, in prescribing the terms and conditions for the provision of such assistance shall (1) permit applicants to continue the use of preferential fare systems for elderly or handicapped persons where those systems were in effect on or prior to November 26, 1974. . . .

MR. [ROBERT J.] MRAZEK [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Mrazek: Insert the following on page 36,

15. 129 CONG. REC. ——, 98th Cong. 1st Sess.

line 24, ending with the phrase "prior to November 26, 1974," "provided that said applicant adopts and implements appropriate standards of eligibility which includes those citizens who reside in the district served by the mass transit system".

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Chairman, I reserve a point of order against the amendment. . . .

I would remind the House under the rules of the House, though, an issue of this kind with substantive merit needs to come before the House—under the rules adopted primarily with votes from the majority side earlier in this Congress—needs to come before the body in the authorization bills rather than in the appropriations bill.

In this particular instance, the amendment that we have before us constitutes legislation in an appropriation bill under the provisions of clause 2 of Rule XXI.

My objection to the amendment rests on that procedural grounds that legislation in an appropriations bill is beyond the scope of the present consideration and that this amendment must properly be brought before the House in the course of the authorization process. . . .

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Chairman, I think the gentleman's point of order is not well taken. The gentleman might have and I indeed had considered making a point of order against the section as being not in order for reasons that the gentleman has stated with respect to this amendment.

No such point of order was made, however. Therefore, it is too late to knock out the legislation on the basis that it is legislation on an appropriation bill.

This amendment merely seeks to make technical changes in the language which is already there and to which no objection was made. Therefore, it should be in order. . . .

MR. [DENNIS M.] HERTEL of Michigan: Mr. Chairman, it seems clear that the amendment proposed now that is in question deals with perfecting language. We are talking about the very same standards in this amendment that are recognized in the bill. All we are talking about is extending those standards to another group of citizens that are covered by this bill and this authority. . . .

THE CHAIRMAN:[16] If no other Member wishes to be heard, the Chair is prepared to rule.

Although the pending section of the bill includes legislation which was allowed to remain when no point of order was raised, the fact is that the amendment adds additional legislative requirements that appropriate standards of eligibility be determined for an additional category of citizens not covered by section 305 and, therefore, the Chair must rule that it is more than perfecting and in fact does constitute additional legislation on an appropriation and is out of order at this time.

MR. OTTINGER: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. OTTINGER: Mr. Chairman, would it be in order at this time, then, to assert a point of order against section 305?

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16. Philip R. Sharp (Ind.).

THE CHAIRMAN: The Chair will indicate to the gentleman that the assertion of that point of order comes too late.

Time for Making Points of Order Against Provisions of Bill Considered as Read

§ 2.22 Where a general appropriation bill is by unanimous consent considered as read and open to points of order and then to amendments at any point, points of order against provisions in the bill must be made before amendments are offered, and cannot be reserved pending subsequent action on amendments, since points of order lie against provisions in the bill as reported under Rule XXI clause 2, and separately against amendments in violation of that rule.

On Dec. 1, 1982,[17] during consideration in the Committee of the Whole of the Departments of Labor, Health and Human Services, and Education appropriation bill (H.R. 7205), a parliamentary inquiry was raised as indicated below:

MR. [NEAL] SMITH of Iowa: Mr. Chairman, I have a parliamentary inquiry.

The portion of the bill to which the parliamentary inquiry relates is as follows:

SPECIAL PROGRAMS

For carrying out the consolidated programs and projects authorized under chapter 2 of the Education Consolidation and Improvement Act of 1981; . . .

. . . Mr. Chairman, is it possible, since the bill is open to amendment [at] any point, to reserve a point of order and to make it at a later time against certain lines in the bill?

THE CHAIRMAN:[18] The Chair will state that the point of order must be made at this time, before amendments are offered.

Point of Order Against Paragraph Where Amendment Has Been Offered

§ 2.23 While a point of order can be made against an entire paragraph of a general appropriation bill if any portion contravenes the rules, it is too late to rule out the entire paragraph after points of order against specific portions have been sustained and an amendment to the paragraph has been offered.

On June 27, 1974,[19] during consideration of the Departments

17. 128 CONG. REC. 28175, 97th Cong. 2d Sess. See also §§ 2.15, 2.16, supra, for earlier precedents on related issues.

18. Don Fuqua (Fla.).

19. 120 CONG. REC. 21671, 21672, 93d Cong. 2d Sess.

of Labor, and Health, Education, and Welfare appropriation bill (H.R. 15580), the following proceedings occurred as indicated above:

MR. [DANIEL J.] FLOOD [of Pennsylvania]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Flood: Page 18, line 7, insert ": *Provided*, That none of the funds in this Act shall be used to pay any amount for basic opportunity grants for full-time students at institutions of higher education who were enrolled as regular students at such institutions prior to April 1, 1973." . . .

MRS. [EDITH] GREEN of Oregon: Mr. Chairman, I make a point of order against this amendment. The point of order is what I cited a moment ago, Cannon's Procedure in the House of Representatives, on page 246:

If a part of a paragraph . . . is out of order, all is out of order and a point of order may be raised against the portion out of order or against the entire paragraph. . . .

THE CHAIRMAN:[20] The Chair is prepared to rule.

The amendment offered by the gentleman from Pennsylvania (Mr. Flood), does appear to meet the tests of a limitation on an appropriation bill. It limits the funds in this specific bill and it is negatively stated. For these reasons it would clearly appear to be admissible as a limitation, distinguishable from that language which was stricken in the proviso that had appeared in the original bill.

The Chair does not understand that the gentlewoman had raised a point of order against the entire paragraph. The gentlewoman raised two specific points of order on which the Chair ruled.

If the gentlewoman had at that time intended to make a point of order against the entire paragraph she should so have stated, and the Chair believes that a point of order at this moment on those grounds would be untimely made since an amendment to the paragraph is now pending.

Point of Order Weighed Against Bill as Amended

§ 2.24 A point of order against an amendment as legislation on a general appropriation bill must be determined in relation to the bill in its modified form (as affected by disposition of prior points of order).

On June 14, 1978,[1] the Chair found that, to a general appropriation bill from which all funds for the Federal Trade Commission had been stricken as unauthorized, an amendment prohibiting the use of all funds in the bill to limit advertising of (1) food products containing ingredients found safe by the Food and Drug Administration or considered "generally recognized as safe", or not con-

20. James C. Wright, Jr. (Tex.).

1. 124 CONG. REC. 17644–47, 95th Cong. 2d Sess.

taining ingredients found unsafe by the FDA, and (2) toys not declared hazardous or unsafe by the Consumer Product Safety Commission, imposed new duties upon the Federal Communications Commission (another agency funded by the bill) to evaluate findings of other federal agencies—duties not imposed upon the FCC by existing law, and therefore violated Rule XXI clause 2. The proceedings are discussed in Sec. 58.7, infra.

Reserving Points of Order on General Appropriation Bill

§ 2.25 Once points of order have been reserved in the House against provisions in a general appropriation bill pending a unanimous consent request for filing of the report thereon and referral to the Union Calendar when the House would not be in session, points of order need not be reserved again when the report is filed from the floor as privileged on a later day, as the initial reservation carries over to any subsequent filing on that bill.

On Mar. 1, 1983,[2] privileged report was submitted on H.R. 1718, the essential and productive jobs and unemployment compensation appropriation bill, 1983:

> Mr. [Jamie L.] Whitten [of Mississippi], from the Committee on Appropriations, submitted a privileged report (Rept. No. 98–11) on the bill (H.R. 1718) making appropriations to provide emergency expenditures to meet neglected urgent needs, to protect and add to the national wealth, resulting in not make-work but productive jobs for women and men and to help provide for the indigent and homeless for the fiscal year 1983, and for other purposes, which was referred to the Union Calendar and ordered to be printed.
>
> THE SPEAKER PRO TEMPORE:[3] All points of order on the bill have previously been reserved.

Parliamentarian's Note: While there did not appear to be a precedent directly on this point, it was decided merely as a matter of convenience to the minority that where they have once reserved points of order (so that provisions in violation of Rule XXI clauses 2 and 6 might be stricken on points of order by the Committee of the Whole and not reported back to the House), the minority Member need not be back on the floor to again reserve points of order when the report is filed.

Appropriation Bills Read "Scientifically" by Paragraph Headings

§ 2.26 General appropriation bills are read only by para-

2. 129 CONG. REC. ——, 98th Cong. 1st Sess.

3. Bill Alexander (Ark.).

graph headings and appropriation amounts, and the Clerk reads the page and line numbers of those headings for the information of Members only when the reading of the bill has been interrupted by debate or amendment.

On Nov. 30, 1982,[4] during consideration of H.R. 7158 (Department of Treasury and Postal Service appropriation bill), the Chair made a statement regarding the timeliness of points of order during the reading of appropriation bills as follows:

> MR. [WILLIAM E.] DANNEMEYER [of California]: Mr. Chairman, I have a point of order which I would like to assert at page 25, lines 8 through 20.
>
> THE CHAIRMAN:[5] The Chair would advise the gentleman in order to do that, that section of the bill having been read, he will have to request unanimous consent.
>
> MR. DANNEMEYER: Mr. Chairman, I ask unanimous consent that I be permitted to assert a point of order on page 25, lines 8 through 20. . . .
>
> MR. [EDWARD R.] ROYBAL [of California]: Mr. Chairman, I object.
>
> THE CHAIRMAN: Objection is heard. . . .
>
> The Chair would make only one observation and that is this: that the Clerk is reading this bill as Clerks for years and years and years have read appropriation bills. Under that procedure, normally page numbers are not cited at all unless the reading of the bill has been interrupted by the offering of an amendment or by debate.
>
> So it does, the gentleman is correct, require closer attention than the reading of a normal bill or bills other than appropriation bills.

Chair Normally Does Not Ask For Points of Order

§ 2.27 The Chair does not inquire whether any points of order are to be made against a paragraph of a general appropriation bill which has been read by the Clerk (except where reading has been dispensed with by unanimous consent).

On May 31, 1984,[6] the following exchange occurred:

> The Clerk read as follows:
>
> Sec. 610. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to issue, implement, administer, conduct or enforce any antitrust action against a municipality or other unit of local government. . . .
>
> MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, I offer an amendment.
>
> THE CHAIRMAN:[7] The Clerk will report the amendment.

4. 128 CONG. REC. 28066, 28067, 97th Cong. 2d Sess.
5. Gerry E. Studds (Mass.).
6. 130 CONG. REC. ——, 98th Cong. 2d Sess.
7. George E. Brown, Jr. (Calif.).

The Clerk proceeded to read the amendment.

MR. [JOHN EDWARD] PORTER [of Illinois] (during the reading): Mr. Chairman, is the Chair not going to ask for points of order on this segment?

THE CHAIRMAN: The Clerk had completed reading the section, so the Chair did not ask for points of order.

§ 3. Waiver of Points of Order; Perfecting Text Permitted to Remain

Points of order against provisions of an appropriation bill may be waived by unanimous consent or special rule. Such waiver will not preclude points of order against amendments offered from the floor; but, of course, the waiver of points of order may be made applicable to such amendments, or to specified amendments.

In addition, language of the bill or amendment that is subject to a point of order may be permitted to remain through mere failure to make the point of order.

Language that has been permitted to remain in the bill or amendment may be modified by a further amendment, provided that such amendment is germane and does not contain additional legislation or additional separately earmarked unauthorized items of appropriation.

The precedents which follow discuss these principles.

Waiver by Unanimous Consent

§ 3.1 The House may grant unanimous consent that points of order be waived against all of the provisions contained in an appropriation bill, even before such bill is reported to the full committee by a subcommittee.

On May 23, 1944,[8] a unanimous-consent request was granted, as follows, relating to H.R. 4879, the national war agencies appropriation bill:

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I ask unanimous consent that it may be in order to take up the war agencies bill immediately after disposition of business on the Speaker's table on Thursday next, that points of order on the bill be waived, and that general debate be confined to the bill.

THE SPEAKER [SAM RAYBURN, of Texas]: Is there objection to the request of the gentleman from Missouri (Mr. Cannon)?

MR. [JOHN] TABER of New York: Mr. Speaker, reserving the right to object, the gentleman means points of order on matters contained in the bill?

MR. CANNON of Missouri: Yes; only points of order on matters reported by

8. 90 CONG. REC. 4917, 78th Cong. 2d Sess.