

offered by Mrs. Fenwick as a substitute for the amendment offered by Mr. Skubitz: At the end of the amendment offered by Mrs. Fenwick strike the period and add the following: "*Provided further*, That the funds appropriated under this paragraph shall be obligated or expended to assure full compliance of the Occupational Safety and Health Act of 1970 by Members of Congress and their staffs."

MR. [WILLIAM D.] FORD of Michigan: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN: ⁽²⁰⁾ The Chair recognizes the gentleman from Michigan.

MR. FORD of Michigan: Mr. Chairman, the amendment is not germane. It is also in violation of the rule against legislating on an appropriation bill. . . .

THE CHAIRMAN: The Chair recognizes the gentleman from Pennsylvania (Mr. Myers).

MR. MYERS of Pennsylvania: Mr. Chairman, because of my great concern for the safety of all workers and because of the fact that Members of Congress are allowed in fact to have several offices and up to 18 full-time employees, some of those who travel vehicular equipment on the highways are exposed to extreme hazards. . . .

The objective of this bill is to appropriate money to see that OSHA is bringing under compliance all workers who work in an environment such as an industrial office or similar facilities.

MR. [RONALD A.] SARASIN [of Connecticut]: Mr. Chairman, I make a point of order.

THE CHAIRMAN: The gentleman from Pennsylvania (Mr. Myers) is being heard on a point of order.

MR. SARASIN: Mr. Chairman, it would appear that the gentleman is not addressing himself to the point of order, but he is addressing himself to the amendment.

THE CHAIRMAN: The gentleman is correct.

The gentleman from Pennsylvania (Mr. Myers), at this point, should address his comments to the point of order made by the gentleman from Michigan (Mr. Ford), to-wit, that the amendment offered by the gentleman from Pennsylvania (Mr. Myers) would not be germane to the language of the substitute which it would seek to amend and, further, that it would constitute legislation on an appropriation bill.

§ 38. Debate Under Five-minute Rule

Relevancy Requirement

§ 38.1 Debate in the Committee of the Whole under the five-minute rule must be confined to the pending amendment.

On Jan. 23, 1936,⁽¹⁾ during debate on a supplemental appropriations bill, Mr. Hamilton Fish, Jr., of New York, arose to move to strike out the last word and stated that he was using the motion "merely as a vehicle for my remarks." He then commenced to discuss the failure to appropriate

1. 80 CONG. REC. 963, 74th Cong. 2d Sess.

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

compensation to the widow of a former Congressman. Mr. William B. Bankhead, of Alabama, arose to state a point of order that Mr. Fish's remarks did not relate to the amendment then pending. Chairman Jere Cooper, of Tennessee, ruled as follows:

. . . The gentleman is aware, of course, that certain practices are sometimes indulged in by general consent but if a point of order is made against them, the point of order must be sustained. Debate under the 5-minute rule must be confined to the paragraph under consideration. The paragraph here under consideration relates to the National Labor Relations Board. The gentleman's remarks do not, apparently, refer to this subject matter. The point of order is, therefore, sustained.⁽²⁾

§ 38.2 Although debate on an amendment under the five-minute rule in Committee of the Whole must be confined to the subject matter of the amendment, enforcement of the rule requires that a point of order be made, since the Chair does not normally enforce the rule on his or her own initiative and may even

2. See also 110 CONG. REC. 755, 88th Cong. 2d Sess., Jan. 21, 1964; 96 CONG. REC. 1734, 81st Cong. 2d Sess., Feb. 9, 1950; and 90 CONG. REC. 421, 78th Cong. 2d Sess., Jan. 19, 1944.

allow some latitude in debate, at the sufferance of the Committee of the Whole.

On this occasion, the Speaker Pro Tempore had refused to recognize for one-minute speeches before the legislative business.⁽³⁾ The Chairman of the Committee of the Whole stated his intention to allow, with the sufferance of the Committee of the Whole, the rule of relevancy in debate to be relaxed, in order to allow Members to address the subject of one-minute speeches. The proceedings in the Committee of the Whole on July 25, 1980,⁽⁴⁾ were as follows:

MR. [E. G.] SHUSTER [of Pennsylvania]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Shuster as a substitute for the amendment offered by Mr. Mitchell of New York:

None of the funds appropriated for the emergency preparedness and mobilization program may be used to purchase oil that originated in Libya, where evidence has been presented that said oil did in fact originate in Libya. . . .

MR. SHUSTER: Mr. Chairman, I use this as a mechanism to focus on an

3. For further discussion of the Chair's discretion with regard to recognizing Members for one-minute speeches, see § 9, supra.
4. 126 CONG. REC. 19766, 96th Cong. 2d Sess.

issue of great importance to the minority and junior Members of both parties. By way of background leading up to the Libyan-HUD relationship, I wish to inform the House that this morning I delivered to the Speaker of the House a letter expressing our shock and disappointment with the sudden reversal of a many year custom in this House where the Chair refused to recognize Members for 1-minute speeches at the beginning of the day's session. . . .

Fifth, 1-minute speeches are especially important for new Members on both sides of the aisle, because they must often wait for hours or days to express themselves in committee or on floor debate, since the seniority system puts them at the bottom of the ladder. Sometimes, they are allocated. . . .

MR. JOHN L. BURTON [of California]: The gentleman from California rises to inquire of the Chair if the gentleman is speaking on the HUD appropriation bill or has got an amendment to the House rules.

THE CHAIRMAN:⁽⁵⁾ The gentleman from Pennsylvania is addressing the amendment offered by the gentleman from Pennsylvania. . . .

MR. JOHN L. BURTON: . . . We have an agreement to let him talk out of order?

THE CHAIRMAN: The Chair, with the sufferance of the Committee and at this point in the proceedings, is personally willing to allow the gentleman from Pennsylvania broad leeway. . . .

MR. [WILLIAM M.] THOMAS [of California]: Mr. Chairman, I thank the gentleman for yielding.

The old political saying was, "If you can't stand the heat, get out of the kitchen."

Apparently, the Democratic leadership has changed that to say, "If you can't stand the heat, move the kitchen."

MR. JOHN L. BURTON: Mr. Chairman, a point of order. . . .

Mr. Chairman, these people are not talking about a relevant, germane amendment to this bill, and I think it is outrageous that these dilatory tactics go on in the people's House. . . .

THE CHAIRMAN: Does the gentleman from California make a point of order?

MR. JOHN L. BURTON: Yes. He is out of order. Would you rule on my point of order?

THE CHAIRMAN: The gentleman must proceed in order.

§ 38.3 While debate under the five-minute rule must be confined to the pending portion of the bill, the Chair cannot anticipate whether debate on a particular issue might be related to what a pending portion of the bill contains or does not contain, or to a germane amendment thereto.

The following proceedings occurred in the Committee of the Whole during consideration of H.R. 2969 (the Department of Defense authorization for fiscal year 1984) on June 15, 1983:⁽⁶⁾

MR. [ED] BETHUNE [of Arkansas]: Mr. Chairman, I am not trying to get the debate off on something that is ir-

5. Elliott H. Levitas (Ga.).

6. 129 CONG. REC. 15803, 98th Cong. 1st Sess.

relevant. I am now satisfied, based on the letter from the Secretary dated today in response to my announcement that I intended to call a secret session, that I can discuss the details concerning the Big Eye bomb. I intend to do that whether the gentleman wishes to have me do that or not. . . .

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, I have a parliamentary inquiry. . . .

Mr. Chairman, the gentleman from Arkansas (Mr. Bethune) has indicated that he intends to discuss the Big Eye bomb under title I of the armed services procurement bill of 1984. My inquiry is, Would not such a discussion be ruled out of order, since there are no procurement funds in title I for the Big Eye bomb?

THE CHAIRMAN PRO TEMPORE:⁽⁷⁾ The Chair will state that the question would only be whether it is relevant to the matter under consideration in title I of the procurement bill, if the debate were in open session in the Committee of the Whole.

MR. STRATTON: Mr. Chairman, there are no procurement funds for the Big Eye, and there are no production funds, so then it would be out of order, I take it, Mr. Chairman.

Let me advise the Chair, however, that we do have money in the R&D title II section, but not in title I.

THE CHAIRMAN PRO TEMPORE: The Chair will state that the debate may advocate that production money be included for the Big Eye bomb. The Chair does not know what the amendment or debate would advocate.

Indulging in Personalities

§ 38.4 Debate under the five-minute rule in the Com-

7. Marty Russo (Ill.).

mittee of the Whole must be confined to the pending amendment and a Member may not indulge in personalities.

On Apr. 17, 1936,⁽⁸⁾ during consideration of a District of Columbia rent bill in the Committee of the Whole, Mr. Marion A. Zioncheck, of Washington, offered an amendment and during debate stated as follows:

Mr. Chairman, there has been a bad rumor running around the town that the reason the gentleman from Texas [Mr. Blanton] objects to this bill is that he is a landlord.

Mr. Thomas L. Blanton, of Texas, made a point of order against those remarks, and Chairman William B. Umstead, of North Carolina, ruled as follows:

. . . The gentleman from Washington will confine his remarks to the amendment which he offered and avoid personalities, and please proceed in order.

Following another personal remark by Mr. Zioncheck, the Chairman again reminded him that he could not indulge in personalities.

Confining Remarks to Pending Amendment

§ 38.5 Where a Member has been recognized under the

8. 80 CONG. REC. 5647, 74th Cong. 2d Sess.

five-minute rule in the Committee of the Whole to propose an amendment, he must confine his remarks to the pending amendment and discussion of subjects which may be addressed later in the reading is not in order.

On Jan. 21, 1964,⁽⁹⁾ Mr. Adam C. Powell, of New York, arose to offer an amendment, under the five-minute rule, to a bill amending the Library Services Act. Mr. Powell proceeded to state major differences between House practice and Senate practice with respect to striking language from a bill. Mr. Peter H. B. Frelinghuysen, Jr., of New York, rose to state the point of order that Mr. Powell was not confining himself to the present amendment but was stating major differences in all the amendments that Mr. Powell could offer to later parts of the bill. Chairman William S. Moorhead, of Pennsylvania, ruled as follows:

The gentleman must confine himself to the discussion of the amendment. It may be to explain it he will have to be broader than just the narrow amendment itself, but it must be to the subject of the pending amendment.

MR. FRELINGHUYSEN: And he must confine himself, Mr. Chairman, to the

9. 110 CONG. REC. 755, 88th Cong. 2d Sess.

significance of the amendment which he has offered?

THE CHAIRMAN: The gentleman will proceed in order.

§ 38.6 Only one amendment to a substitute may be pending at one time, and amendments which might be subsequently offered may not be debated while another amendment is pending.

On May 15, 1979,⁽¹⁰⁾ during consideration of the Alaska National Interest Lands Conservation Act of 1979 (H.R. 39), the following proceedings occurred in the Committee of the Whole:

THE CHAIRMAN:⁽¹¹⁾ The question is on the amendments offered by the gentleman from Louisiana (Mr. Huckaby) to the amendment in the nature of a substitute offered by the Committee on Merchant Marine and Fisheries.

The amendments to the amendment in the nature of a substitute were agreed to.

MR. [PETER H.] KOSTMAYER [of Pennsylvania]: Mr. Chairman, I have two amendments.

THE CHAIRMAN: Are these amendments to the Merchant Marine Committee amendment?

MR. KOSTMAYER: To Udall-Anderson.

THE CHAIRMAN: There is already an amendment pending to the Udall substitute. Another amendment to the Udall substitute is not in order at this point.

10. 125 CONG. REC. 11178, 96th Cong. 1st Sess.

11. Paul Simon (Ill.).

MR. KOSTMAYER: Well, Mr. Chairman, they can be spoken on now and voted on later; is that correct?

THE CHAIRMAN: They are not in order at this time.

§ 38.7 It is relevant in debate under the five-minute rule to discuss what weapons could be funded by a pending portion of a bill containing general, unallocated authorizations for weapons production and procurement, particularly where an amendment is pending to prohibit use of the funds for the type of weapon under discussion.

On June 15, 1983,⁽¹²⁾ the following proceedings occurred in the Committee of the Whole during consideration of H.R. 2969 (the Department of Defense authorization for fiscal year 1984):

MR. [ED] BETHUNE [of Arkansas]: . . . Now, let us get to the Big Eye bomb, which is the only thing left before us here today. . . . The Big Eye bomb has an interesting history. Nineteen years ago . . . they started working on the Big Eye bomb. . . .

In October 1982, in the test chamber at Aberdeen, Md., . . . they tested a Big Eye bomb . . . and at 60 degrees Fahrenheit it blew up. . . .

I do not think, from what I know about this bomb, that they can make it work, based on this information. . . .

So I do not think you have got a situation here where you have got the bugs out of this bomb, frankly. In fact, all of the evidence is to the contrary.

Nineteen years they have been working on this bomb, and they finally decided to test it under something similar to what they might actually face in the modern combat world, and it blew up on them. . . .

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, I make a point of order against the gentleman from Arkansas. The gentleman is discussing a munition that is not funded in this section of the bill, and he is spending considerable time of the Committee in discussing that, although there are no funds for the production of the weapon that he refers to. I think he is proceeding out of order.

THE CHAIRMAN PRO TEMPORE:⁽¹³⁾ The gentleman from Arkansas is discussing chemical weapons, and it is difficult to restrict the gentleman to a narrow interpretation of that in the comments he is making.

MR. STRATTON: Mr. Chairman, if I may be heard further on the point of order, there are a number of things that are funded in the bill. Binary systems is the basic issue which the gentleman from Wisconsin addressed himself to. But the particular one that the gentleman from Arkansas is debating is something that is not funded in this portion of the bill, and it seems to me that this is a proceeding out of order and abusing the time of the Committee.

THE CHAIRMAN PRO TEMPORE: Does the gentleman from Arkansas (Mr. Bethune) wish to be heard on the point of order?

12. 129 CONG. REC. 15817, 15818, 98th Cong. 1st Sess.

13. Marty Russo (Ill.).

MR. BETHUNE: Mr. Chairman, is my time protected while the gentleman from New York makes his point of order?

THE CHAIRMAN PRO TEMPORE: The gentleman's time is protected.

MR. BETHUNE: I thank the Chair.

Mr. Chairman, I would just simply say that the bill does ask for moneys to build buildings, facilities, to do tooling work, to build the casings for the Big Eye bomb. I do not know what could be more relevant than to discuss whether or not it works before we start building facilities and the QL mix that would go in the bomb. . . .

MR. STRATTON: Mr. Chairman, the thrust of the gentleman's argument in discussing an item that is not funded in the legislation is to create the impression that all of the activities of the Department of the Army in dealing with chemical weapons, and particularly the binary weapons which are funded in this section, is defective. But the item which he is constantly referring to, and with all of its mistakes, is not included; and the problems that it had led the committee to remove the money for that particular weapon. If the gentleman wants to discuss it, it ought to be discussed in the research and development title of the bill rather than in the procurement and production title with which we are engaged now.

THE CHAIRMAN PRO TEMPORE:⁽¹⁴⁾ The Chair will rule.

The money in the bill is unearmarked and the arguments of the gentleman from Arkansas are considered relevant to the debate on his amend-

ment which is pending and which addresses the issues being debated.

The Chair will overrule the point of order.

Debate Under Pro Forma Amendment

§ 38.8 Debate in the Committee of the Whole under the five-minute rule must be confined to the pending amendment and, if a point of order is raised, a Member may not under a pro forma amendment discuss a section of the bill not immediately pending.

On Feb. 9, 1950,⁽¹⁵⁾ Mr. Cecil F. White, of California, arose to make the point of order that Mr. Reid F. Murray, of Wisconsin, who had gained the floor through offering a motion to strike the last word, was not discussing the deficiency appropriation bill (H.R. 7200) then under consideration, nor had he asked for unanimous consent to proceed out of order. Mr. Murray replied:

Mr. Chairman, the gentleman from California is too hasty because I am talking on this bill and the things that I am talking about are leading up to this question of food for the Indians which has to do with this particular bill.

THE CHAIRMAN:⁽¹⁶⁾ The matter under consideration at the moment

15. 96 CONG. REC. 1753, 81st Cong. 2d Sess.

16. Mike Mansfield (Mont.).

14. John P. Murtha (Pa.).

happens to be the Tennessee Valley Authority.

MR. MURRAY of Wisconsin: Mr. Chairman, that may be true, but I moved to strike out the last word. I am talking in connection with this bill. In this bill we have surplus foods for the Indians.

THE CHAIRMAN: The gentleman should discuss that matter which is pending at the present time. The part of the bill to which he refers has not been reached yet.

§ 38.9 Debate on a motion to strike out the last word in the Committee of the Whole must relate to the matter contained in the pending section or amendment.

On Jan. 23, 1936, Chairman Jere Cooper, of Tennessee, ruled that where a point of order was made against a Member who had moved to strike out the last word of a pending amendment and then discussed matters irrelevant to the amendment, the Chair was required to order the Member with the floor to confine his remarks to the pending amendment.⁽¹⁷⁾

§ 38.10 Debate on a pro forma amendment must be confined to the portion of the bill to which the pro forma amendment has been offered.

An example of the proposition stated above occurred on June 21,

17. 80 CONG. REC. 963, 74th Cong. 2d Sess.

1974,⁽¹⁸⁾ during consideration of H.R. 15472 (agriculture, environment and consumer appropriations for fiscal year 1975) in the Committee of the Whole. The proceedings were as follows:

MR. [PIERRE S.] DU PONT [IV, of Delaware]: Mr. Chairman, I move to strike the requisite number of words.

(Mr. du Pont asked and was given permission to revise and extend his remarks.)

MR. DU PONT: Mr. Chairman, I am taking this time now for fear that when we get down to the end of the bill there will be a limitation of time, and I will not have the opportunity to explain the amendment that I intend to offer on the last page of the bill.

Mr. Chairman, I intend to offer an amendment to set a maximum limit on the appropriations under this bill to \$12.7 billion. . . .

MR. [JOHN E.] MOSS [of California]: Mr. Chairman, I insist on the regular order, and the regular order is the point of the bill where we are now reading. It is not a point to be reached at a later time. I insist upon the regular order.

THE CHAIRMAN:⁽¹⁹⁾ The gentleman is correct. The gentleman in the well received permission to strike out the last word and then proceeded to discuss an amendment to be offered to the last section of the bill. The gentleman from [Delaware] is not discussing a part of the bill that is pending.

The point of order is sustained.

18. 120 CONG. REC. 20595, 93d Cong. 2d Sess.

19. Sam Gibbons (Fla.).

§ 38.11 Debate in Committee of the Whole on a pro forma amendment offered under the five-minute rule must be confined to the subject of the pending bill.

During consideration of an appropriation bill (H.R. 7631) in the Committee of the Whole on July 24, 1980,⁽²⁰⁾ a point of order was sustained relative to the scope of debate on an amendment. The proceedings were as follows:

MR. [JAMES T.] BROYHILL [of North Carolina]: Mr. Chairman, I move to strike the last word. . . .

Mr. Chairman, the gentleman from California (Mr. Danielson) has a bill in his committee, and I know I wrote some of the early language of that bill. I just wanted to ask the gentleman if that committee will be reporting that regulatory reform bill anytime soon.

In his remarks the gentleman said that the Congress legislates, the executive will execute the law, and the judiciary will interpret it. The problem is that we have been turning over law-making powers to the executive, and that is wrong. . . .

MR. [BOB] TRAXLER [of Michigan]: Mr. Chairman, with due respect and with due deference to my colleagues, I must rise to a point of order.

October 1 is coming, and I feel we will not have this bill completed by that time. I would ask that we return to general order.

THE CHAIRMAN PRO TEMPORE:⁽¹⁾ The debate must be confined to the subject

²⁰ 126 CONG. REC. 19442, 96th Cong. 2d Sess.

1. D. Douglas Barnard, Jr. (Ga.).

of the bill. For that reason, the point of order is sustained.

The gentleman from North Carolina (Mr. Broyhill) will proceed in order.

Parliamentarian's Note: While general debate in Committee of the Whole need not be confined to the subject matter of the pending bill in the absence of a special rule so providing, debate under the five-minute rule must be relevant to the pending bill or amendment.

§ 38.12 While normally under the five-minute rule debate on a pro forma amendment may relate either to a pending amendment in the nature of a substitute or to a perfecting amendment thereto (as not necessarily in the 3rd degree), where a special rule permitted both the offering of perfecting amendments in the 2nd degree and of pro forma amendments to the substitute when perfecting amendments were not pending, the Chair permitted pro forma amendments during pendency of perfecting amendments but in response to a point of order required that debate be related solely to the perfecting amendment.

During consideration of the first concurrent resolution on the bud-

get for fiscal year 1983 (H. Con. Res. 345) in the Committee of the Whole on May 26, 1982,⁽²⁾ the following exchange occurred:

MR. [LES] AU COIN [of Oregon]: Mr. Chairman, I move to strike the requisite number of words.

(Mr. AuCoin asked and was given permission to revise and extend his remarks.)

MR. AU COIN: Mr. Chairman, I rise to strike the requisite number of words not because I intend to speak to the amendment of the gentleman from Michigan, but instead to take this time in concert with colleagues who care very much about what the Latta amendment does to housing. Not for housing, but to housing.

Because of the extent of the confusion in the House over this issue some time needs to be taken tonight before we ultimately vote on the Latta amendment. . . .

Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

MR. [JAMES H.] QUILLEN [of Tennessee]: Mr. Chairman, I understood we were debating the Conyers amendment, and I did not hear permission to speak out of order.

MR. AU COIN: Mr. Chairman, my remarks go to the Latta substitute, and I believe that is pending before the committee.

THE CHAIRMAN:⁽³⁾ The Chair will have to state that the matter that is pending is the Conyers amendment,

2. 128 CONG. REC. 12088, 12090, 97th Cong. 2d Sess.

3. Richard Bolling (Mo.).

and that debate should be germane to the Conyers amendment.

§ 38.13 Debate under the five-minute rule in Committee of the Whole must be confined to the pending amendment when that point of order is raised, even if a Member is attempting to respond to previous extraneous remarks in debate against which no point of order was raised.

During consideration of the Defense Industrial Base Revitalization Act (H.R. 5540) in the Committee of the Whole on Sept. 23, 1982,⁽⁴⁾ the following exchange occurred:

MR. [ED] BETHUNE [of Arkansas]: Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Erlenborn amendment.

Mr. Chairman, I would associate myself with the remarks made by the gentleman from Illinois (Mr. Erlenborn). . . .

We just passed a tax bill, and in that tax bill were all kinds of provisions to encourage investment, to encourage businesses to expand, and we have heard speech after speech about how those provisions that we passed in the tax bill were to favor—

MR. [JAMES J.] BLANCHARD [of Michigan]: Mr. Chairman, a point of order.

4. 128 CONG. REC. 24967, 24968, 97th Cong. 2d Sess.

THE CHAIRMAN:⁽⁵⁾ The gentleman will state his point of order.

MR. BLANCHARD: I believe the gentleman from Arkansas is out of order, Mr. Chairman, in the fact that he is not speaking on the amendment or anything related to the amendment.

I respect his views and we will fully air those, but this amendment is the Davis-Bacon amendment; it is not related to the debate.

MR. BETHUNE: Mr. Chairman, may I respond?

THE CHAIRMAN: The gentleman may respond.

The Chair will say that the gentleman should address the amendment.

MR. BETHUNE: The gentleman would be glad to address the amendment except that the subject that the gentleman is now treating was raised by the gentleman from Michigan (Mr. Ford), not the gentleman from Arkansas.

It seems to me only fair that I be permitted to take some of my time to rebut the statements made.

THE CHAIRMAN: The Chair will simply observe that the debate should relate to the amendment. The gentleman will continue with his time. . . .

MR. BETHUNE: Mr. Chairman, when a subject is raised by another Member and then a Member is subsequently recognized under the 5-minute rule, may the Member use whatever portion of his 5 minutes he desires to rebut the statements made in the course of the proceeding of the debate?

THE CHAIRMAN: The Chair will state that if extraneous debate occurred at a

previous time, then a point of order would lie to object to that at that time. Since the point of order was not raised, the gentleman from Arkansas is under obligation to confine his remarks to the amendment.

§ 38.14 Debate under the five-minute rule must be confined to the pending portion of the bill if a point of order is made, but a Member may speak out of order by unanimous consent.

During consideration of H.R. 3132 (the Treasury and Postal Service appropriations for fiscal year 1984) in the Committee of the Whole on June 8, 1983,⁽⁶⁾ the following proceedings occurred:

MR. [ABRAHAM] KAZEN [Jr., of Texas]: Mr. Chairman, I have a parliamentary inquiry. . . .

I intend to have a colloquy with the distinguished chairman of the subcommittee on a matter that was contained in title I. I do not have an amendment to offer. I just want to clarify some of the language in the report.

Do I have to ask unanimous consent to go back to title I or am I privileged under my privilege to strike the last word? May I enter into that colloquy without asking for unanimous consent?

THE CHAIRMAN:⁽⁷⁾ The Chair will advise the gentleman he may move to strike the last word and then ask

5. Wyche Fowler, Jr. (Ga.).

6. 129 CONG. REC. 14860, 98th Cong. 1st Sess.

7. Gerry E. Studds (Mass.).

unanimous consent to speak out of order if challenged.

(By unanimous consent, Mr. Kazen was allowed to speak out of order.)

Debate on Appeals

§ 38.15 An appeal in the Committee of the Whole is debatable under the five-minute rule and such debate is confined to the appeal.

On Feb. 22, 1950,⁽⁸⁾ Chairman Francis E. Walter, of Pennsylvania, ruled that where the Member who had the floor yielded time in debate to a second Member, the second Member could not yield time to a third Member for the purpose of moving that the Committee of the Whole rise and report to the House. Mr. Howard W. Smith, of Virginia, appealed from the decision of the Chair and the Chairman stated that the appeal was debatable for five minutes but that the discussion was required to be on the appeal.

Mr. John E. Rankin, of Mississippi, was recognized and described the proposition then under consideration (H.R. 4453, to prohibit discrimination in employment because of race, color, religion, or national origin) as "communistic legislation that Stalin promulgated in 1920." Mr. Vito

Marcantonio, of New York, arose to the point of order that "the gentleman from Mississippi [Mr. Rankin] must direct his remarks to the question of the appeal from the ruling of the Chair." The Chairman sustained the point of order.

Unanimous Consent To Speak Out of Order

§ 38.16 Since debate under the five-minute rule is confined to the subject matter of the bill, unanimous consent is required for a Member to propose a question of personal privilege under the guise of a pro forma amendment.

On Sept. 4, 1969,⁽⁹⁾ Mr. Edward I. Koch, of New York, stated a question of personal privilege in the Committee of the Whole. Chairman Cornelius E. Gallagher, of New Jersey, stated that a point of personal privilege could not be raised in the Committee of the Whole but that Mr. Koch could offer a pro forma amendment to be heard on his question. Mr. Koch then did as the Chairman suggested. Mr. Joe D. Waggoner, Jr., of Louisiana, made a point of order that Mr. Koch could not proceed out of order by debating mat-

8. 96 CONG. REC. 2178, 81st Cong. 2d Sess.

9. 115 CONG. REC. 24372, 24373, 91st Cong. 1st Sess.

ters extraneous to the subject matter of the bill under consideration (H.R. 12085, extending the Clean Air Act) without requesting unanimous consent to proceed out of order. The Chairman sustained the point of order and Mr. Koch was granted unanimous consent to speak out of order on the question of personal privilege on a pro forma amendment.

§ 38.17 Debate under the five-minute rule in Committee of the Whole must be confined to the subject matter then pending, but a Member may speak out of order by unanimous consent, regardless of whether the Committee is proceeding pursuant to the provisions of a special order permitting only designated amendments to be offered.

On Aug. 3, 1977,⁽¹⁰⁾ the Committee of the Whole had under consideration the National Energy Act (H.R. 8444) when the following proceedings occurred:

MR. [MARIO] BIAGGI [of New York]: Mr. Chairman, I move to strike the last word.

Mr. Chairman, I ask unanimous consent to be permitted to speak out of order. . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Reserving the right to object,

10. 123 CONG. REC. 26483, 95th Cong. 1st Sess.

Mr. Chairman, may we know what the purpose is?

MR. BIAGGI: . . . I am asking for permission to speak out of order because on this day Archbishop Makarios of Cyprus passed away. I would like, for the record, to make some appropriate comments.

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

Mr. Chairman, is this request in order under the rule which allows no amendments and no Members the opportunity to offer any changes in the bill?

THE CHAIRMAN:⁽¹¹⁾ The Chair will respond that by unanimous consent, it would be in order to speak out of order.

Motion To Strike Enacting Clause

§ 38.18 On a motion to strike out the enacting clause of a bill in the Committee of the Whole, there is great latitude in debate and a Member having the floor may discuss the entire bill.

On Apr. 25, 1947,⁽¹²⁾ Chairman Earl C. Michener, of Michigan, overruled a point of order that the gentleman with the floor, discussing the motion that the Committee of the Whole rise and report the bill back to the House with the recommendation that the

11. Edward P. Boland (Mass.).

12. 93 CONG. REC. 4087, 80th Cong. 1st Sess.

enacting clause be stricken, must confine his remarks to the motion:

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. CASE of South Dakota: It has always been my understanding that when a preferential motion to strike out the enacting clause was used, that the debate had to be upon that motion. I submit to the Chair that the gentleman is not speaking on the motion.

THE CHAIRMAN: On a motion to strike out the enacting clause of a bill, the whole bill is before the House; therefore, there is great latitude in debate.⁽¹³⁾

§ 38.19 Debate in opposition to a preferential motion to strike out the enacting clause may relate to any portion of the bill, including the merits of an amendment pending when the preferential motion was offered.

During consideration of the military procurement authorization (H.R. 6674) in the Committee

13. The Chair has repeatedly ruled that the motion opens up the entire scope of the bill for discussion. See, for example, 113 CONG. REC. 32679, 90th Cong. 1st Sess., Nov. 15, 1967; 113 CONG. REC. 14145, 14147, 14148, 90th Cong. 1st Sess., May 25, 1967; 104 CONG. REC. 16718, 16719, 85th Cong. 2d Sess., Aug. 8, 1958; and 79 CONG. REC. 3744, 74th Cong. 1st Sess., Mar. 15, 1935.

of the Whole on May 20, 1975,⁽¹⁴⁾ the proposition described above was demonstrated as follows:

MR. [MELVIN] PRICE [of Illinois]: Mr. Chairman, I move that all debate on this amendment and all amendments thereto, and on further amendments to the bill, end in 20 minutes.

THE CHAIRMAN:⁽¹⁵⁾ The question is on the motion offered by the gentleman from Illinois.

The motion was agreed to. . . .

THE CHAIRMAN: The time of the gentleman has expired. [All time has expired.]

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Bauman moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

MR. BAUMAN: Mr. Chairman, I only offer this motion in order to obtain time since I was not able to receive any time from the gentleman from Iowa (Mr. Harkin) who offered what he claimed to be the Bauman amendment. I have read his amendment very carefully. It is not the same amendment which I offered to the National Science Foundation authorization bill. . . .

MR. [TOM] HARKIN [of Iowa]: Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the preferential motion.

I thank the gentleman from Maryland for giving me an opportunity to

14. 121 CONG. REC. 15458, 15465, 15466, 94th Cong. 1st Sess.

15. Dan Rostenkowski (Ill.).

expand a little bit more on some of these ridiculous spending programs that waste the taxpayers' dollars.

If the offices of other Members are like mine, whenever they get one of these letters they begin to wonder, and people begin to ask the Members, just what it is we do to take care of these situations. If we pass this routine authorization bill for the Defense Department for \$32 billion in the usual manner, we will have to answer to our constituents if we choose to be honest about it.

MR. BAUMAN: Mr. Chairman, I demand regular order.

THE CHAIRMAN: The gentleman speaks on the preferential motion.

The Chair would like to make the observation that any portion of the bill is open to [debate].

§ 38.20 Since the preferential motion that the Committee rise and report with the recommendation that the enacting clause be stricken applies to the entire bill, debate may be directed to any part of the bill, and the motion may be used by a Member to secure five minutes to debate a pending amendment notwithstanding a limitation of time for debate on the pending amendment and all amendments thereto.

On June 20, 1975,⁽¹⁶⁾ during consideration of H.R. 3474⁽¹⁷⁾ in

16. 121 CONG. REC. 19941, 19951, 94th Cong. 1st Sess.

17. A bill authorizing appropriations for the Energy Research and Develop-

the Committee of the Whole, the following proceedings occurred:

MR. [JOHN] YOUNG of Texas: Mr. Chairman, I move that all debate on this amendment and all amendments thereto cease in 30 minutes.

THE CHAIRMAN:⁽¹⁸⁾ The gentleman from Texas moves that all debate on the McCormack amendment and all amendments thereto cease in 30 minutes.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Texas (Mr. Young).

The motion was agreed to. . . .

MR. [ROBERT W.] EDGAR [of Pennsylvania]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Edgar moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

MR. EDGAR: Mr. Chairman, I make this motion to get more time to talk about this very important matter. . . . We rise in support of the Coughlin amendment. We feel very strongly that the gentleman from Iowa (Mr. Harkin) has pointed out many of the important features of this program that have to be taken into consideration and we feel very strongly that we should delete this item from the budget.

Mr. Chairman, I yield the continuation of my time to the gentleman from Iowa (Mr. Harkin). . . .

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, I demand regular order.

ment Administration for fiscal year 1976.

18. J. Edward Roush (Ind.).

THE CHAIRMAN: The Chair is following regular order. . . .

MR. SYMMS: Is it regular order to seek recognition under a preferential motion?

THE CHAIRMAN: The Chair will state that under the parliamentary procedure the entire bill is under debate. The Chair is following regular order.

§ 39. —General Debate in Committee of the Whole

Relevancy Not Required in General Debate Under General Rules

§ 39.1 A Member is not required to confine himself to the subject matter of the pending bill during general debate in the Committee of the Whole unless a special rule provides otherwise.

On Apr. 9, 1957,⁽¹⁹⁾ Mr. Noah M. Mason, of Illinois, rose to make a point of order that Mr. Clarence Cannon, of Missouri, who was addressing the Committee of the Whole, was speaking about the Postmaster General and not confining his remarks to the bill then under discussion, H.R. 6700, the Department of Commerce and related agencies appropriation bill. Mr. Cannon countered that there

19. 103 CONG. REC. 5360, 85th Cong. 1st Sess.

was no rule confining debate to the subject matter of the pending bill in general debate in the Committee. Chairman Brooks Hays, of Arkansas, ruled as follows:

. . . The Chair is not aware of any rule that requires discussion during general debate to be restricted to the bill. It is only where a special rule limits debate to the subject of the bill that the speaker is restricted to the provisions of the bill.

MR. MASON: Then we are considering this bill without a rule from the Rules Committee which would limit debate to the bill; is that it?

THE CHAIRMAN: That is correct, the Chair will advise the gentleman; consequently, there is no limitation in general debate on an appropriation bill.⁽²⁰⁾

On May 13, 1948,⁽²¹⁾ while the Committee of the Whole was sitting, the following ruling by Chairman Charles B. Hoeven, of Iowa, was made in response to a point of order by Mr. Leon H. Gavin, of Pennsylvania:

I wish to ask the Chairman what legislation we are discussing. What good bill is before the House?

THE CHAIRMAN: The House is in the Committee of the Whole in general de-

20. Where a special rule confines debate in the Committee of the Whole to the bill under consideration, unanimous consent is required to speak to another subject (see §§ 37.3, 37.4, supra).

21. 94 CONG. REC. 5802, 80th Cong. 2d Sess.