

Chapter CCXXII.¹

APPROPRIATIONS IN CONTINUATION OF A PUBLIC WORK.

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1332. An appropriation in violation of existing law is not in order for the continuance of a public work.

On February 1, 1913,² the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

Bathing beach: For superintendent, \$600; watchman, \$480; temporary services, supplies, and maintenance, \$2,250; for repairs to buildings, pools, and the upkeep of the grounds, \$1,500, to be immediately available; in all, \$4,830.

Mr. Ben Johnson, of Kentucky, made the point of order that whereas existing law provided for construction and maintenance of these beaches from revenues of the District of Columbia, the pending paragraph provided an appropriation to be paid half from revenues of the District of Columbia and half from the Federal Treasury.

The Chairman³ held:

The Chair entirely agrees with the statement just made with reference to public schools or playgrounds, and concedes the authority of Congress by appropriation to provide for their continuance as a public work after they have once been put into operation. But the Chair would not agree if there were a general act, or special act, originally providing for the construction and maintenance of those buildings if thereafter an appropriation were sought to be made upon terms contrary to the act of original authorization under which they were first brought into existence and maintained. In regard to this particular paragraph against which the point of order is now made, if the paragraph for a bathing beach, and so forth, had appeared in this appropriation bill prior to the passage of this act of 1890, it would have been subject to the point of order, because there was no law authorizing it, either wholly out of District revenues or by half-and-half

¹Supplementary to Chapter XCVI.

²Third session Sixty-second Congress, Record, p. 2449.

³S. A. Roddenberry, of Georgia, Chairman.

appropriation. On September 26, 1890, however, an act was passed, the first section of which reads.

“That the Commissioners of the District of Columbia are hereby authorized and permitted to construct a beach and dressing houses upon the east shore of the tidal reservoir against the Washington Monument Grounds, and to maintain the same for the purpose of free public bathing, under such regulations as they shall deem to be for the public welfare; and the Secretary of War is requested to permit such use of the public domain as may be required to accomplish the objects above set forth.”

The second section is as follows:

“That the sum of \$3,000 is hereby appropriated from the revenues of the District of Columbia, to be immediately available, for the purposes of this act.”

It is of course assumed that the \$3,000 was expended for the purposes of this act as provided in section 1. The purposes of the act as set out in section 1 are “to construct a beach and dressing houses,” and so forth, and “to maintain the same.” Then, if any subsequent appropriation is sought to be made for the maintenance, repair, and continuance of this public work, why not follow the act in pursuance of which the first appropriation was made? Why discard the special act of Congress passed for this specific purpose and rely upon an implied authority, derived from another law of prior existence?

In the view of the existing statute on the subject, the entire act being, according to familiar rule, construed together, a judicial officer would be required under rules of law to look to the intention of the legislation and to the intention, if necessary to be resorted to, of the legislators at the time the act was passed. It seems to the Chair that if it was intended by Congress at the time of passing the act of 1890 that the construction and maintenance of the bathing beach would be chargeable to the District of Columbia for one year only, and that thereafter the maintenance and repair of the bathing beach would be chargeable and appropriated for under the half-and-half clause, then Congress would undoubtedly have said so in the act, either by express provision to that effect or by words of limitation. There is no ambiguity in the language contained in the act of 1890; there is no conflict or want of harmony between the two sections; the last is the logical sequence to the first, and it fixes the expense of the enterprise wholly on the District. This being true, as is apparent from a clear reading of the act itself, the Chair is forced to the legal conclusion, giving to words their usual and ordinary meaning and significance, that the bathing beach, as authorized and appropriated for by the act, was to be for free public bathing in the District of Columbia, to be constructed and maintained wholly from the revenues of the District. At any rate, that is what the law which brought the beach into existence says. In that view of the case, the Chair is compelled to sustain the point of order.

1333. An amendment providing for the completion and maintenance of roads, bridges, and trails in Alaska held not to fall within the rule that appropriations may be made on an appropriation bill for a work in progress.

The tendency of later decisions is to limit the application of the principle of making in order appropriations for work in progress.

On February 21, 1917,¹ the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Julius Kahn, of California, offered this amendment:

Protection, repair, and maintenance of military post roads, bridges, trails, Alaska: For the completion, repair, and maintenance of military post roads, bridges, and trails, Territory of Alaska, \$500,000.

Mr. William Gordon, of Ohio, made the point of order that the amendment was not authorized by law.

¹ Second session Sixty-fourth Congress, Record, p. 3818.

The Chairman¹ held:

This amendment is, of course, an attempt to apply the principle that appropriations may be made to a work in progress, to this scheme of proposed roads. In the first place, the Chair will say that there has been a tendency to narrow the application of that principle. But entirely apart from that tendency, the committee which proposes to appropriate for a work in progress should have some original authority in that connection. This authority is entirely lacking in this committee in the present connection. If there is any authority anywhere to appropriate for these roads as a work in progress that authority is not found in this committee. Under the act which the Chair has read, this committee is not authorized to make appropriations for the Alaskan roads. A special fund for the construction of these roads is provided in the Alaskan act. That provision does not give the right to this committee, either by virtue of the principle of a work in progress or on any other ground, to appropriate for the roads in question.

The Chair a moment ago referred to the tendency to limit the application of the principle of making appropriations for work already in progress. In that connection I desire to read a citation which has just been handed to me:

“But later decisions, in view of the indefinite extent of the practice made possible by the early decisions, have ruled out propositions to appropriate for new buildings in navy yards.”

What could be a larger application of this principle than to hold that if this board has outlined a large scheme of road construction in Alaska, and done some work here and there in connection with the same, this committee, or any committee, is thereby authorized to appropriate the funds necessary to complete every road contemplated by that scheme or project?

In section 29 of the act which the Chair has cited may be found an elaborate provision for road construction in Alaska by a board to be composed of an engineer officer of the United States two other officers, and so on. At the conclusion of that section it is specifically stated that the cost and expense of laying out, constructing, and repairing these roads and trails in the Territory shall be paid by the disbursing officer out of the “roads and trails” portion of the Alaskan fund. The Chair thinks that the point of order directed to this paragraph is well taken, and it is therefore sustained.

1334. A public work to come within the terms of the rule must be actually “in progress” according to the usual significance of the words.

On January 26, 1921,² the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

To supplement the \$75,000 appropriation now available for the construction of a laboratory building on the Arlington farm, property of the Department of Agriculture, as permanent headquarters for the testing and research work of the Bureau of Public Roads, \$35,000.

Mr. Gilbert N. Haugen, of Iowa, made the point of order that the appropriation was not authorized by law.

In response to an inquiry from the Chairman as to whether work on the building had actually begun, Mr. Sydney Anderson, of Minnesota, said:

No; it has not. I should like to say in that connection that the bureau could have commenced the construction of this building and then have come in and asked for a deficiency appropriation, or it could have commenced the construction of the building and then come to Congress and said it did not have enough money to finish it, and we would have been practically compelled to make the appropriation. The chief of the bureau did not follow that course. He did not want to put us in that position. So, finding that the sum was inadequate to construct the kind of building that ought to be constructed for these purposes, he did not cause the construction of the building

¹ Edward W. Saunders, of Virginia, Chairman.

² Third session Sixty-sixth Congress, Record, p. 2076.

to be begun, and it is not under construction to-day. I presume that under these circumstances the item is subject to a point of order.

The Chairman¹ sustained the point of order.

1335. A provision in current law for “grading, filling, and sea-wall construction” was held to indicate a work in progress within the meaning of the rule.

An appropriation to continue a project authorized by existing law without limitation of cost was held in order on an appropriation bill.

On February 12, 1921,² the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

Navy yard, Puget Sound, Wash.: For grading, filling, and sea-wall construction, \$250,000; keel blocks for Dry Dock No. 2, \$6,500; extension of building No. 178, \$13,500; roadways and sidewalks, \$25,000; Pier 5, rebuilding and extending, \$715,000; telephone improvements, \$10,000; pattern shop extension, \$90,000; 50-ton dry-dock crane, \$200,000; storehouse for ordnance, \$95,000; in all, \$1,405,000.

Mr. Fred A. Britten, of Illinois, raised a question of order on the provision. The Chairman³ ruled:

The Chair will state that this item—“for grading, filling, and sea-wall construction”—is in the current law. Apparently it is a work already in progress; and there being nothing to indicate that there is any limit of cost on the work, It would appear to be a continuation of a work heretofore authorized and in progress, and therefore in order; and the Chair overrules the point of order.

1336. By “public works and objects already in progress” is meant actual works, not plans; specific projects capable of completion within reasonable time, and not mere proposed undertakings of a general and indefinite nature as the building of a town which might continue indefinitely.

An appropriation to purchase a site and replace thereon a town in exchange for one flooded by the reservoir of a Government irrigation project was held not to be authorized by law.

On February 16, 1922,⁴ the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

To purchase or condemn and to improve suitable land for a new town site to replace the portion of the town of American Falls which will be flooded by the reservoir, and to provide for the removal of buildings to such new site and to plat and to provide for appraisal of lots in such new town site and to exchange and convey such lots in full or part payment for property to be flooded by the reservoir and to sell for not less than the appraised valuation any lots not used for such exchange, \$1,200,000.

¹ Frederick C. Hicks, of New York, Chairman.

² Third session Sixty-sixth Congress, Record, p. 3089.

³ Joseph Walsh, of Massachusetts, Chairman.

⁴ Second session Sixty-seventh Congress, Record, p. 2673.

Mr. Bertrand H. Snell, of New York, made a point of order on the paragraph. In discussing the point of order Mr. James R. Mann, of Illinois, said:

Mr. Chairman, I should like to make this suggestion about this public-works matter. A public work has always been considered, with one exception, as an actual work, not a plan. The only exception to that is in reference to the Navy, where long ago a Chairman of the Committee of the Whole House on the state of the Union arbitrarily ruled that the construction of a new battleship was in continuation of the work of building up the Navy. I think that is the only exception. I will not undertake to apply that to this case, because I am not familiar enough with the case to apply it; but this is very sure: Suppose the commission recommends the acquirement of a lot of land for a public park and Congress appropriates money for the purchase of a particular part of that land. That purchase can be made, but that would not authorize an appropriation for the purchase of the remainder of the land as a part of the public work at all. The distinction is not hard to make, and the public work has to be an actual work, not a plan.

The Chairman ¹ decided:

This paragraph provides:

“For operation and maintenance, continuation of construction, and incidental operations, with authority in connection with the construction of American Falls Reservoir, to purchase or condemn and to improve suitable land for a new town site to replace the portion of the town of American Falls which will be flooded by the reservoir, and to provide for the removal of buildings to such new site and to plat and to provide for appraisal of lots in such new town site and to exchange and convey such lots in full or part payment for property to be flooded by the reservoir and to sell for not less than the appraised valuation any lots not used for such exchange, \$1,200,000.”

The point of order is made that the provision relative to the acquisition of lands for a new town site, for the removal of buildings to the new town site, and the platting and appraisal of lots there is not authorized by existing law.

The section of the reclamation act which has been referred to several times already in the discussion of this bill, section 7, provides:

“That where in carrying out the provisions of this act it becomes necessary to acquire any rights or property, the Secretary of the Interior is hereby authorized to acquire the same for the United States by purchase or by condemnation”—

and so on; giving to the Secretary of the Interior the right to purchase or condemn sites for reclamation projects.

On reflection, and without any direct precedents to guide the Chair, he is inclined to recur to the ordinary rules of interpretation of such matters. For instance, if a municipality is authorized by law to condemn certain sites for purposes of public buildings, and is given by law the right of eminent domain, it does not follow as a consequence that the municipality can condemn other lands to give some one in exchange for the lands that have been thus taken. The same thing is true as to a public service corporation which is given the right of eminent domain. The fact that the corporation agrees to give another piece of land in exchange for one taken does not give the right to condemn the other piece of land which it might exchange for the one the corporation has taken.

There is some distinction, but none in principle so far as the act that we rely on here is concerned. It seems to me the power given to the Secretary of the Interior is the right to condemn or to pay and to settle for such lands as are taken and are injured by the proposed improvement.

The Chair does not believe that it follows as an incident of that power that the Secretary of the Interior has the right to buy other lands or to condemn, if you please, other lands, and give them to persons injured in the settlement of claim for damages. The power is restricted, and a strict interpretation of the authority must be made. The power is to condemn or purchase such lands as the Government finds necessary for the actual construction of the proposed improvement.

¹ William J. Graham, of Illinois, Chairman.

One other question remains, and that is whether this is to be considered as a continuation of a public work. The rule of the House on that subject is as follows, and is familiar, I have no doubt, to all Members:

“No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriation for such public work and objects as are already in progress.”

There is a remarkable scarcity of direct precedents on this subject. The Chair is obliged largely to rely upon his impressions as to what a public work is as meant by this rule. In the current law there is a similar appropriation for this purpose, and I am advised that that work is already in progress. But a public work, it seems to the Chair, must necessarily mean some distinct work, such as building a ditch, a dam, a building, something that is tangible and is distinct and separate from other things. This is a proposition to build a town, abroad general proposition, including streets and alleys and buildings and transporting the buildings—how many buildings no one knows. It does not appear to the Chair that that can be considered a public work that is in progress. The power is too broad. The proposition of building a town necessarily is so extensive that if the Chair was to construe that as a public work it seems the power given to department heads would be almost as extensive as they desire to have it.

The Chair would say that if the authorization here was for the continuation of a dam or of a building or of a particular irrigation canal, the Chair would agree that it might be construed as an appropriation in continuation of a public work already in progress. But the language of this section is:

“To purchase or condemn and to improve suitable land for a new town site to replace the portion of the town of American Falls which will be flooded by the reservoir, and to provide for the removal of buildings to such new site and to plat and to provide for appraisal of lots in such new town site and to exchange and convey such lots in full or part payment for property to be flooded by the reservoir”—

And so forth, which goes far beyond an appropriation for any specific public work.

There is no doubt about the authority of the Reclamation Service to purchase or condemn all lands necessary for the construction of an irrigation system. But this is not for an irrigation system. It is for a town site, not for irrigation, but to house settlers who have been removed from the irrigation project.

The point of order is sustained. Inasmuch as the point of order was made to the whole paragraph, it will have to be sustained to the whole paragraph.

1337. The phrase “public works and objects as are already in progress” refers to such tangible things as structures, bridges, buildings, etc., and not to such intangible matters as investigations, inquiries, etc.

On March 31, 1908,¹ the Agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, and the Clerk had read the following:

To investigate the effect of cold storage upon the healthfulness of foods.

Mr. James B. Perkins, of New York, having raised a question of order, Mr. James R. Mann, of Illinois, suggested that the provision was in order as a continuation of a work in progress.

Mr. Edgar D. Crumpacker, of Indiana, took issue:

Has it not been decided on several occasions that the term “object already in progress” refers to some tangible thing, some structure like a bridge or a building, and not to an investigation or an inquiry like this? I think the gentleman will find several decisions defining that term and to that effect.

¹First session Sixtieth Congress, Record, p. 4189.

The Chairman¹ decided:

The Chair thinks it is exceedingly unfortunate that the point of order should be raised upon a provision of this kind, which has been included in bills heretofore for two or three years, and upon what must necessarily be more or less of a continuing nature, and thereby prevent the Committee of the Whole from passing upon the merits of the proposition. But the precedents of the House are all in favor of the point of order, both upon the question of the investigation itself and upon the point raised by the gentleman from Illinois. The precedents may be summed up in this language:

“Investigations of foods in their relation to commerce and consumption were held not authorized by law in such a way as to permit an appropriation on the agricultural appropriation bill.”

And, on the point raised by the gentleman from Illinois, that this is a continuing work the precedents are all clearly against the position taken by the gentleman from Illinois. The Chair, therefore, is forced to sustain the point of order.

1338. Fulfillment of a condition precedent necessary to authorize an appropriation having been certified in an official report, provision for such appropriation was held to be in order on an appropriation bill.

On June 20, 1930,² the second deficiency appropriation bill was being considered in the Committee of the Whole House on the state of the Union.

When the paragraph making appropriation for the Boulder Dam project, under the Bureau of Reclamation, was reached, Mr. Lewis W. Douglas, of Arizona, made the point of order that the appropriation was not authorized.

After exhaustive debate, the Chairman³ ruled:

The Chair will state before any other argument is commenced that the gentleman from Arizona very kindly and entirely in accordance with the wishes of the Chair submitted his brief to him some days ago. The Chair has therefore been advised of the situation, and the Chair believes that he is ready to rule unless there is some one else in support of the point of order who desires to be heard.

The point of order is that this appropriation violates Rule XXI, clause 2, of the Rules of the House, reading as follows:

“No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress.”

There is no claim that the present appropriation comes within the last clause of the rule which has just been read. The claim is that there is no authorization in existing law under which this appropriation can be made.

The Boulder Canyon project act approved December 21, 1928, contains the following, section 3:

“There is hereby authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such sums of money as may be necessary to carry out the purposes of this act, not exceeding in the aggregate \$165,000,000.”

There is no claim that that authorization, standing alone, would not cover every item contained in the appropriation now pending before the committee. The claim is, however, that the authorization granted in section 3 is modified and controlled by the following provision in paragraph (b) of section 4, namely:

“Before any money is appropriated for the construction of said dam or power plant, or any construction work done for or contracted for, the Secretary of the Interior shall make provision

¹ David J. Foster, of Vermont, Chairman.

² Second session Seventy-first Congress, Record, p. 11356.

³ Carl R. Chindblom, of Illinois, Chairman.

for revenues by contract, in accordance with the provisions of this act, adequate in his judgment, to insure payment of all expenses of operation and maintenance of said works incurred by the United States and the repayment, within 50 years from the date of the completion of said works, of all amounts advanced to the fund under subdivision (b) of section 2 for such works, together with the interest thereon, made reimbursable under this act."

The pertinent question before the Chair, therefore, is the construction of that proviso in the Boulder Canyon project act contained in paragraph (b) of section 4. It is a most unusual provision. The gentleman from Arizona argues that it is a prohibition against the power of Congress to make any appropriation unless certain conditions precedent have been complied with. A pertinent inquiry becomes: What is the condition precedent before an appropriation may be made? The gentleman contends that the various contracts must have been properly made within the meaning and according to the conditions of the act, and that the chairman presiding in the Committee of the Whole House on the state of the Union has the duty to determine for himself and to rule upon the question whether those contracts have properly been made, whether they are in legal force and effect, and whether they have in general complied with the terms of the law.

The Chair thinks that the language of paragraph (b), section 4, must be construed, viewing it in its entirety, as creating a condition precedent to the effect that the Secretary of the Interior shall have made provisions for revenues, by contract, in accordance with provisions of the act, adequate, in his judgment, to insure the payment of all expenses of operation, and so forth.

The question then is: How is compliance of the Secretary of the Interior with that condition, precedent to be evidenced? How is his compliance with that condition to be brought to the attention of Congress and of the presiding officer of the Committee of the Whole House?

We have a budget law under which the President sends estimates of appropriations, and in which he sets forth the grounds upon which he bases a suggestion or an estimate for an appropriation. The President of the United States, in compliance with the budget law, on the 1st of May, 1930, sent a communication to the Speaker of the House, and this is a public document, brought to the attention of the House officially, in which he transmits, for the consideration of the Congress, a supplemental estimate of appropriation for the Department of the Interior for the fiscal year 1930, to remain available until expended, for the items contained in the appropriation now in question. With his own letter the President submitted a communication from the Bureau of the Budget. The Director of the Bureau of the Budget made this statement in his communication to the President:

"The purpose of this estimate is to provide funds for the commencement of construction work on the Boulder Canyon project authorized by act of December 21, 1928. The Secretary of the Interior advises that, as required by the act, contracts have been secured which will provide revenues adequate in his judgment to pay operation and maintenance costs and to insure the repayment to the United States within 50 years from date of completion of the dam, power plant, and related works, of all amounts to be advanced for the construction of such works, together with the interest thereon made reimbursable by the act."

In other words, the Director of the Budget advised the President and the President advised Congress that the Secretary of the Interior has advised or certified to the Director of the Budget that he has complied with the conditions precedent set forth in section 4, paragraph (b), of the Boulder Canyon project act.

It is argued that it is the duty of the Chairman of the Committee of the Whole House on the state of the Union to go back of the report by the Secretary of the Interior that he has complied with the conditions precedent for the appropriation. The Chair does not think the Boulder Canyon project act makes that requirement of the Committee of the Whole or of its chairman. The Chair thinks that the Appropriations Committee, in the first place, the Committee of the Whole, in the second place, and the House, in the third place, under the law, would have full authority to rest its appropriation upon the report from the Secretary of the Interior that he has complied with the conditions precedent for the appropriation. However, it is perfectly proper for the Committee on Appropriations in this case, as in other cases, to ascertain for itself whether the Congress should make the appropriation, notwithstanding the fact that the conditions precedent may have been

complied with. It is perfectly proper for the Committee of the Whole House on the state of the Union to make a similar inquiry and for the House itself to make such an inquiry. When that is done the discussion by the gentleman from Arizona with reference to the contracts will be pertinent, and the Chair was disposed to permit the gentleman to complete his argument—although the Chair held the view then which he holds now—in the hope that the presentation of the matter at that time would obviate further discussion of that subject matter.

The Chair has, after much consideration, not only during the presentation of his point of order by the gentleman from Arizona, but prior to this discussion to-day, reached the conclusion that the point of order is not well taken and it is therefore overruled.

1339. While alteration and adaptation of public buildings belonging to the Government is held to be continuation of a work in progress within the meaning of the rule, the alteration and adaptation of a building not the property of the Government, even though under its control, was held not to be such a work in progress and subject to a point of order.

The Smithsonian Institution though under the control of the United States is not Government property and an appropriation for its alteration or repair is not in order on an appropriation bill.

On April 29, 1908,¹ the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. John Dalzell, of Pennsylvania, offered an amendment providing an appropriation for alterations in the building of the Smithsonian Institution.

Mr. James A. Tawney, of Minnesota, having raised a point of order, the Chairman² held:

The amendment proposed by the gentleman from Pennsylvania is as follows:

“Gallery of Arts: For the adaption of the Smithsonian Institution building for the purposes of an art gallery.”

The Chair thinks the amendment is subject to the point of order. Whether the Smithsonian Institution be a public institution, a private institution, or a quasi-public institution, it is quite sure that neither the building of the Smithsonian Institute nor the ground on which that building rests belongs to or is the property of the United States. It is quite true that this is an institution authorized by the United States, and by acts of Congress, but that does not make it a Government building or a Government project. It is also true that section 5586 of the organic act recites:

“Whenever suitable arrangements can be made for their reception, all objects of art”—

And other things mentioned—

“shall be delivered to such persons as may be authorized by the Board of Regents to receive them, and shall be so arranged and classified in the building erected for the Institution as best to facilitate the examination and study of them.”

That refers, not to the building, but to the collection of art. Now, the proposition of the gentleman from Pennsylvania is to change the building. The Chair thinks that it is not “a work in progress,” and therefore is subject to the point of order.

It is quite true that the supreme court of this District rendered a decision, which the Chair has not had an opportunity to examine fully, but from a cursory examination it appears that this decision has reference to the National Art Gallery, or collection of art, and not to the building itself. The court finds:

“First. In founding the Smithsonian Institution it was the intention of the Government to provide for an art gallery.”

¹First session Sixtieth Congress, Record, p. 5449.

²James E. Watson, of Indiana, Chairman.

The Government might provide for an art gallery and yet not provide for a building in which to place the art gallery.

“Second. Congress has always recognized the art gallery and made constant provision therefor in the legislation from 1846 to the present day. The debates and journals and records of Congress will furnish abundant recognition on the part of the Government of the National Art Gallery.”

The Chair has no doubt on the proposition that that does not refer to the building, but to the art gallery. It is quite separate and apart from the building or grounds. The same may be said of the other point made in this decision. The Chair thinks this is a proposition to change a building which does not belong to the Government, and is not, therefore, “a work in progress,” and is subject to the point of order. The Chair therefore sustains the point of order.

1340. A work in process of construction but paid for from a designated fund was held not to constitute a “work in progress” within the meaning of the rule.

The building of roads in Alaska under a law providing for their construction from the “Alaska fund” was held not to be such a work in progress as to warrant an appropriation on an appropriation bill.

On February 1, 1909,¹ the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

Construction and maintenance of military and post roads, bridges, and trails, Alaska: For the construction and maintenance of military and post roads, bridges, and trails in the district of Alaska, to be expended under the direction of the board of road commissioners described in section 2 of an act entitled “An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the district of Alaska, and for other purposes,” approved January 27, 1905, and to be expended conformably to the provisions of said act, \$350,000, to remain available until close of fiscal year 1911.

Mr. Robert B. Macon, of Arkansas, presented a point of order.

The Chairman² ruled:

It seems entirely clear that the appropriation contained in the present paragraph is not authorized by the statute to which reference has been made. In 1905 a law was passed which provided that moneys derived from liquor licenses and other purposes stated in Alaska might be used for certain ends. After stating the scheme and referring to the construction of roads, it further goes on:

“The cost and expense of laying out, constructing, and repairing such roads and trails shall be paid by the Secretary of the Treasury out of the road and trail portion of the said Alaska fund.”

It seems to the Chair perfectly clear that an act which authorized the construction of roads and trails, to be paid for out of a certain specified fund known as the “Alaska fund,” to be derived from certain specific sources of revenue, is not the authority of law which is required to authorize an appropriation to be made in a general appropriation bill to be paid out of the Treasury at large; and so it seems to the Chair that this appropriation is not authorized by statute.

It is then argued that even if not authorized originally by statute, it may be regarded under the rule of the House as the continuation of a work already in progress, and for that reason in order upon this bill. The Chair is familiar with that rule. If the construction of a building, for instance, for a public purpose has been commenced, even though originally subject to the point of order, yet the work having commenced and there being no limit of cost, further appropriations may be made.

¹Second session Sixtieth Congress, Record, p. 1698.

²James B. Perkins, of New York, Chairman.

It is entirely possible that if a road or highway for military purposes, or even for other purposes, is once commenced, with no limitation on the appropriation, although originally subject to the point of order, yet the work having been undertaken it would be in order to make an appropriation for a continuation of the work. But the present section is very different, because it authorizes the expenditure of money as follows:

“For the construction and maintenance of military and post roads, bridges, and trails in the district of Alaska.”

In other words, the argument is, if a road had been begun in one State or Territory, this would authorize an appropriation to be made for any other roads or bridges. Two bridges might have been begun in the district of Alaska, Would this authorize this appropriation to be used for the construction of any number of additional roads and bridges in different parts of the district that it might be deemed expedient to build? It does not seem to the Chair that under the rule which authorizes the completion of a work begun, the fact that one road has been commenced in the district would authorize Congress to proceed and extend throughout the entire district any number of roads, and the construction of any number of bridges which the board may not even have planned yet. Therefore the Chair feels constrained to sustain the point of order.

1341. The improvement of a private road, though long in use and on a Government reservation, is not a work in progress within the terms of the rule.

The construction of a bridge on an Indian reservation was held not to be a work in progress justifying an appropriation on an appropriation bill.

On February 21, 1910,¹ the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read the following paragraph:

For the construction of a bridge and the necessary approaches thereto across the Little Colorado River at or near Tanners Crossing on the Navajo Indian Reservation in Coconino County, Territory of Arizona, \$50,000, or so much thereof as may be necessary.

Mr. James R. Mann, of Illinois, made the point of order that the project was not such a work in progress as to authorize an appropriation.

The Chairman² held:

This road seems to have been built by private capital, and of late years kept in order by the county. It being in the nature of a county rather than a government road, it hardly comes within the exception to the rule, which exception permits appropriations in continuation of a public work in progress. Upon this state of facts, and no authority of law for the appropriation having been shown, the Chair must sustain the point of order.

1342. Dicta to the effect that a treaty when duly ratified by the contracting parties thereto becomes existing law to the extent of authorizing an appropriation on an appropriation bill.

Provision for “continuing” conversion of naval cruisers made in a previous appropriation bill was accepted as evidence that the work was actually in progress.

On March 21, 1924,³ the Navy Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

The Secretary of the Navy may use the unexpended balances on the date of the approval of this act under appropriations heretofore made on account of “Increase of the Navy,” together

¹ Second session Sixty-first Congress, Record, p. 2188.

² Marlin E. Olmsted, of Pennsylvania, Chairman.

³ First session Sixty-eighth Congress, Record, p. 4671.

with the sum of \$7,500,000, which is hereby appropriated for the prosecution of work on vessels under construction on such date, the construction of which may be proceeded, with under the terms of the treaty providing for the limitation of naval armament; for continuing the conversion of two battle cruisers into aircraft carriers, including their complete equipment of aircraft and aircraft accessories, in accordance with the terms of such treaty; for the procurement of gyro compass equipments, and for the installation of fire-control instruments on destroyers not already supplied; and for the completion of armor, armament, ammunition, and torpedoes for the supply and complement of vessels which may be proceeded with as hereinbefore mentioned:

Mr. Thomas L. Blanton, of Texas, made the point of order that there was no authority of law for the expenditure.

Mr. Burton L. French, of Idaho, explained:

The gentleman will recall that the limitation of armament treaty carries provisions that are law, under which our committee would be bound to function in considering the conversion of the two battle cruisers into aircraft carriers. I think the gentleman will find that the treaty has the same binding effect as substantive law. The gentleman will recall that the treaty itself provides that two of these cruisers may be converted into aircraft carriers.

The Chairman¹ ruled:

If there has been a treaty which has been duly ratified by the countries entering into it, our country being one of them, and it contains that provision, it has the force of law. The Chair thinks there is perhaps a short way out of this without referring to it. The naval act of last year contained the same item:

“For continuing the conversion of two battle cruisers into aircraft carriers, including their complete equipment of aircraft and aircraft accessories.”

Therefore it is a work already in progress. The Chair can not find in this paragraph any authorization for the appropriation for any new work. The opening language is—“which is hereby appropriated for the prosecution of work on vessels under construction.”

Then there is the item for continuing the conversion of two battle cruisers, which the Chair has already said is a work in progress. It further says in the law of last year:

“In accordance with the terms of such treaty.”

That is a part of the naval appropriation act of last year. There is no question in the Chair’s mind that this is proper. The point of order is overruled.

1343. Publication of a monthly periodical is not considered a continuation of a public work within the meaning of the rule.

A provision for compliance with a statutory requirement but including limitations upon Executive discretion was held to involve legislation and not to be in order on an appropriation bill.

On February 14, 1908,² the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

For a monthly Pilot Chart of the North Pacific Ocean, showing graphically the matters of value and interest to the maritime community of the Pacific coast, and particularly the directions and forces of the winds to be expected during the month succeeding the date of issue; the set and strength of the currents; the feeding grounds of whales and seals; the regions of storm, fog, and ice; the positions of derelicts and floating obstructions to navigation; and the best routes to be followed by steam and by sail; including the expenses of communicating and circulating information; lithographing and engraving; the purchase of materials for and printing and mailing the chart, \$2,000.

¹ William J. Graham, of Illinois, Chairman.

² First session Sixtieth Congress, Record, p. 2050.

Mr. James R. Mann, of Illinois, having raised a question of order, Mr. Frederick H. Gillett, of Massachusetts, said:

Mr. Chairman, this is an appropriation which has been in the bill year after year. It is a regular Government publication, a work now in progress, and it seems to me that the continuation of it is proper upon an appropriation bill. I suppose the gentleman will not deny that it is a work which we have had year by year, which is now being published, and that this is a mere continuation of what is now going on. I call the attention of the Chair to section 432 of the Revised Statutes, as authorizing the publication. Section 432 is as follows:

“SEC. 432. The Secretary of the Navy is authorized to cause to be prepared, at the Hydrographic Office attached to the Bureau of Navigation in the Navy Department, maps, charts, and nautical books relating to and required in navigation, and to publish and furnish them to navigators at the cost of printing and paper, and to purchase the plates and copyrights of such existing maps, charts, navigators, sailing directions and instructions as he may consider necessary, and when he may deem it expedient to do so, and under such regulations and instructions as he may prescribe.”

Mr. Mann argued:

Permit me to call your attention to the fact that this entirely changes the discretion of the Secretary of the Navy in that regard, and requires him to publish a chart giving particularly the directions and forces of the winds to be expected during the month succeeding the date of issue, the set and strength of the currents, the regions of storm, fog, and ice, which is not provided for in the law, but entirely overrules his discretion, and hence is a change of existing law.

The Chairman ¹ held:

The Chair will state frankly that he hardly thinks the appropriation is authorized on the ground that it is a continuing work in progress. The pending paragraph appropriates money for the publication of a monthly pilot chart of the North Pacific Ocean, which, if published, is to include certain things specified in the paragraph, thereby seeming to the Chair to limit the discretion which is vested in the executive officer by section 432, to which the attention of the Chair is called. The Chair thinks it would be possible to appropriate money for publishing a monthly pilot chart of the North Pacific Ocean, but in making the appropriation the directions set forth can not be embodied. The Chair therefore sustains the point of order.

1344. An additional appropriation to enable a legally authorized commission to complete reclassification of salaries was held to be in order on an appropriation bill.

On June 21, 1919,² the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

Joint Commission on Reclassification of Salaries: For an additional amount to enable the commission to complete the reclassification of salaries in accordance with the requirements of section 9 of the legislative, executive, and judicial appropriation act for the fiscal year 1920, \$25,000.

Mr. Joseph Walsh, of Massachusetts, made a point of order on the paragraph and Mr. James W. Good, of Iowa, submitted that it was in continuation of a work in progress.

¹ George P. Lawrence, of Massachusetts, Chairman.

² First session Sixty-sixth Congress, Record, p. 1529.

The Chairman¹ ruled:

The Chair thinks that section 9 of the legislative, executive, and judicial appropriation bill, providing for a joint commission on reclassification of salaries, limiting the life of the commission to the second Monday in January, 1920, and fixing their compensation at \$625 a month and appropriating \$25,000 for the expenses of the commission incurred in the work which they are authorized and directed by the act to perform, justifies the exercise of power by the House in making further appropriations to pay whatever expenses may be incurred from time to time in the performance of the work for which this commission was authorized, and therefore the Chair overrules the point of order.

1345. Continuation of a scientific investigation by a department of the Government was held not to constitute a work in progress and to be unauthorized by law.

On February 11, 1920,² the Agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

For the investigation and demonstration within the United States to determine the best method of obtaining potash on a commercial scale, \$192,900: *Provided*, That the product obtained from such experimentation may be sold at a price to be determined by the Secretary of Agriculture, and the amount obtained from the sale thereof shall be covered into the Treasury as miscellaneous receipts.

Mr. Eugene Black, of Texas, made the point of order under section 2 of Rule XXI.

The Chairman³ said:

The gentleman from Texas makes the point of order upon the paragraph beginning in line 16 and ending in line 22, as follows:

"For investigation and demonstration within the United States to determine the best method of obtaining potash on a commercial scale, \$192,900."

The Chair finds that in the agricultural appropriation act approved August 11, 1916, chapter 313, of Thirty-ninth Statutes, page 465, an item similar in form was carried, with the additional language:

"Including the establishment and equipment of such plant or plants as may be necessary therefor."

The Chair does not think that the continuation of an investigation such as this, a scientific investigation by a department, constitutes such a work in progress as may be denominated a continuation of a public work. In order that the rule should apply something more tangible than an investigation in a plant or establishment should be shown in the authorization under which the appropriation is sought.

The gentleman from Texas bases his claim that this is not a proper matter for investigation and demonstration within the organic law under which the Department of Agriculture operates. Something has been said in discussing the point of order as to the purpose of the authorization of this investigation and demonstration as carried in the language of the item. But upon an inspection of the language appropriating this \$192,900 for determining the best method of obtaining potash on a commercial scale and authorizing its sale at a price to be determined by the Secretary of Agriculture, the Chair is inclined to believe it goes somewhat beyond the scope of the organic law and thinks it is not such work as may properly be said to be authorized by the organic law, and therefore sustains the point of order.

¹ Martin B. Madden, of Illinois, Chairman.

² Second session Sixty-sixth Congress, Record, p. 2787.

³ Joseph Walsh, of Massachusetts, Chairman.

1346. An appropriation to continue work authorized by current law beyond the time of that authorization was ruled out of order on an appropriation bill.

Where a current law provided an appropriation for furnishing during the current fiscal year service records of naval personnel, an appropriation for continuance of that work beyond the year was held not to be in continuation of a public work.

On February 11, 1921,¹ the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

The Bureau of Navigation, Navy Department, is hereby directed to furnish to the proper officers in the several States, Territories, insular possessions, and the District of Columbia, on or before October 31, 1921, statements of the services of all persons from those several places who served in the Navy during the War with Germany, and for that purpose an additional sum not to exceed \$50,000 is hereby appropriated for obtaining the necessary material and the employment of the necessary clerical force.

Mr. Fred. A. Britten, of Illinois, made the point of order that it was legislation on an appropriation bill.

Mr. Patrick R. Kelley, of Michigan, contended that it was in continuation of a public work in progress.

The point of order having been sustained by the Chairman,² Mr. Kelley offered the paragraph as an amendment in this form:

To enable the Bureau of Navigation, Navy Department, to complete the work of furnishing the proper officers in the several States, Territories, insular possessions, and the District of Columbia, on or before October 31, 1921, statements of the services of all persons from those several places who served in the Navy during the war with Germany, and the employment of the necessary clerical force, \$50,000.

Mr. Britten again presented a point of order, which was also sustained by the Chairman.

1347. Appropriations for alteration and repair of battleships and other naval craft, including changes in armament, are in order on appropriation bills as in continuation of public work in progress.

On February 26, 1923,³ the deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and this paragraph had been reached:

For making such changes as may be permissible under the terms of the treaty providing for the limitation of naval armament, concluded on February 6, 1922, published in Senate Document No. 126 of the Sixty-seventh Congress, second session, in the turret guns of the battleships *Florida*, *Utah*, *Arkansas*, *Wyoming*, *Pennsylvania*, *Arizona*, *Oklahoma*, *Nevada*, *New York*, *Texas*, *Mississippi*, *Idaho*, and *New Mexico*, as will increase the range of the turret guns of such battleships to remain available until December 31, 1924, \$6,500,000.

Mr. Thomas L. Blanton, of Texas, raised a question of order on the paragraph.

¹Third session Sixty-sixth Congress, Record, p. 3022.

²Joseph Walsh, of Massachusetts, Chairman.

³Fourth session Sixty-seventh Congress, Record, p. 4695.

The Chairman¹ said:

Reference has been made in this discussion to the treaty negotiated at the Conference on the Limitation of Armament held in Washington during the winter of 1921–22, and while the treaty is not the all-prevailing consideration in the determination of the point of order it must be said that there is and ought to be a moral obligation upon the part of the Government to conform to the spirit of the treaty, even though it has not been ratified by all of the parties signatory thereto. Irrespective of this, the paragraph in question contains the words:

“For making such changes as may be permissible under the terms of the treaty.”

In view of this language, the Chair thinks the question raised relative to the treaty can very effectively be disposed of without any further consideration, because it is not possible to put the money to any purpose other than a purpose that comes within the purview of the treaty.

The proposition relative to the guns on these ships in question is one of the general type of mounting and not of the range, according to the provisions of the treaty, and so the Chair is of opinion that that feature of the point of order is not worthy of further consideration.

The provision relative to the status of these ships that are specifically enumerated at the bottom of page 32 and at the top of page 33 is, however, to be determined by the Chair's ruling. It is quite apparent, in view of a well-established line of decisions and precedents, that alterations and repairs may be made to battleships and other naval craft when they come within the purview of the rule authorizing Congress, through the Appropriations Committee, without specific additional legislative authority, to provide for funds for the continuation of a public work in progress. In the Fifty-ninth Congress a naval appropriation bill provided as follows:

“*Provided further*, That the Secretary of the Navy shall hereafter report to Congress at the commencement of each regular session the number of vessels and their names upon which any repairs or changes are proposed, and which in any case amount to more than \$200,000.”

This sum was subsequently changed to \$300,000 by another naval appropriation bill, but there is nothing in this language that compels the Secretary of the Navy to seek additional specific legislative authority for this situation. He must merely report to Congress, so that Congress may consider the amounts. Irrespective of that, the Secretary of the Navy, in view of a subsequent law, a recent law, does not make his report to Congress but makes it to the Bureau of the Budget, which in turn reports to Congress. This item has been submitted to Congress in the manner provided by law. It is quite clear to the Chair that all of this money proposed here in line 4 of page 33 is for the continuation of an existing public work, and therefore comes within the purview of the rule. The point of order is overruled.

1348. Overruling a former decision,² the construction of a submarine cable in extension of one already laid was held to be in continuation of a public work.

On February 2, 1921,³ the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read:

For defraying the cost of such extensions, betterments, operation, and maintenance of the Washington-Alaska Military Cable and Telegraph System as may be approved by the Secretary of War, to be available until the close of the fiscal year 1923, from the receipts of the Washington-Alaska Military Cable and Telegraph System which have been covered into the Treasury of the United States, the extent of such extensions and betterments and the cost thereof to be reported to Congress by the Secretary of War, \$140,000.

Mr. Thomas L. Blanton, of Texas, made the point of order that it provided for a new project and was legislation.

The Chairman⁴ overruled the point of order.

¹ Clifton N. McArthur, of Oregon, Chairman.

² Hinds' Precedents. see. 3716.

³ Third session Sixty-sixth Congress, Record, p. 2469.

⁴ John Q. Tilson, of Connecticut, Chairman.

1349. An appropriation for care and operation of Government schools was held in order as an appropriation for continuance of a public work in progress.

On March 20, 1924,¹ the Navy Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Thomas S. Butler, of Pennsylvania, offered this amendment:

And for care and operation of schools built at ordnance stations pursuant to authority contained in the act entitled "An act to authorize the President to provide housing facilities for war needs," approved May 16, 1918, \$9,025,000.

Mr. James T. Begg, of Ohio, made the point of order against the amendment. The Chairman² ruled:

Rule XXI, section 2, provides that—

"No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress."

Two questions of fact arise: First, whether this appropriation has been authorized by law, or, second, if it has not been authorized by law, whether it is a public work already in progress.

The fact seems to be that these buildings were constructed under the housing act. Later, under the act of March 1, 1922, section 5, authority is given for caring for, renting, and operating such property as remains undisposed of under that act. Still later, by Executive order, this property was transferred from the Housing Corporation to the Navy Department. It seems to have been provided for by law, and it is a public work in progress. The amendment seems to be in order under that rule. The Chair therefore overrules the point of order.

1350. A proposition to purchase a separate and detached lot of land for a proving ground was held not to be in continuation of a public work.

On September 17, 1917,³ the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

Proving ground: For increasing facilities for the proof and test of ordnance material, including necessary buildings, equipment, and land, \$3,000,000.

Mr. Thomas U. Sisson, of Mississippi, raised the point of order that the proposed expenditure was not authorized by law.

The Chairman⁴ decided:

Clause 2 of rule 21 provides that—

"No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress."

The Chair, of course, understands the contention is that this is in continuation of a project already authorized by law. The Chair desires to call attention to section 3736 of the Revised Statutes, which provides that—

"No land shall be purchased on account of the United States, except under a law authorizing such purchase."

¹ First session Sixty-eighth Congress, Record, p. 4598.

² Henry W. Temple, of Pennsylvania, Chairman.

³ First session Sixty-fifth Congress, Record, p. 7226.

⁴ Charles R. Crisp, of Georgia, Chairman.

The Revised Statutes provide that no land shall be purchased on account of the United States except under a law authorizing such purchase. The purchase of land for a proving ground is not authorized by existing law, and it is clearly new legislation. The Chair happens to have at hand a decision which seems to be absolutely on all-fours with this case, which negatives, the Chair thinks, the proposition that this item is in continuation of a project already authorized. The Chair refers to Hinds' Precedents, volume 4, section 3776. The Chair thinks that is identical with the case at bar and the Chair is constrained to sustain the point of order.

1351. Appropriations for new vessels and otherwise unauthorized craft of the Navy, formerly¹ held to be in order as a continuance of a public work, are no longer admissible on an appropriation bill.

On February 11, 1921,² the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When the paragraph providing for aviation in the Navy was read Mr. Frederick C. Hicks, of New York, from the Committee on Naval Affairs, by direction of that committee, proposed this amendment:

For necessary heavier-than-air craft, \$4,906,500; for necessary lighter-than-air craft, \$670,000; for necessary equipment for such aircraft, \$500,000; for new construction, buildings, and improvements at air stations as follows: Cape May, \$25,000; Coco Solo, \$402,000; Hampton Roads, \$78,000; Lakehurst, \$360,000; Pearl Harbor, \$210,000; Pensacola, \$100,000; San Diego, \$164,000; Pacific Coast Rigid Station, \$1,450,000.

Mr. Frank W. Mondell, of Wyoming, having reserved a point of order on the amendment, Mr. Hicks referred to the well-established principle holding an appropriation for a new vessel of the Navy in order as a continuation of a public work.

Mr. Thomas L. Blanton, of Texas, insisted on the point of order.

The Chairman³ ruled:

The gentleman from New York has offered an amendment to provide for necessary heavier-than-air craft and necessary lighter-than-air craft, necessary equipment, and so forth, and new construction work, to which the gentleman from Texas makes the point of order that it is not in order upon an appropriation bill. The Chair believes that because of the adoption of a new rule placing the appropriations for the Naval Establishment in the Appropriations Committee and changing somewhat the jurisdiction of the Committee on Naval Affairs, it would be well to direct the attention of the committee to paragraph 13 of Rule XI as amended, which paragraph is a part of the rule, the first part of which reads as follows:

"All proposed legislation shall be referred to the committees named in the preceding rule as follows, viz: Subjects relating to the Naval Establishment, including increase or reduction of commissioned officers and enlisted men and their pay and allowances, and the increase of ships or vessels of all classes of the Navy, to the Committee on Naval Affairs."

The gentleman from New York contends, if the Chair understood him correctly, that he offers this amendment with the approval and by the direction of the Committee on Naval Affairs, of which the gentleman from New York is a member. And the Chair is, of course, willing to accept the statement of the gentleman from New York that is correct, and assumes that the committee may have taken action upon the proposed amendment authorizing the gentleman from New York to offer it to this particular bill, but this authority adds nothing to the question.

Heretofore, under the rules of the House as interpreted by the various presiding officers, the addition of a new ship might be provided for in an appropriation bill which was, under the former rules, reported by the Committee on Naval Affairs. The Chair believes that under the language of

¹ Hinds' Precedents, sec. 3723.

² Third session Sixty-sixth Congress, Record, p. 3018.

³ Joseph Walsh, of Massachusetts, Chairman.

the new rule, which seems to be plain and specific, that the increase of ships and vessels of all classes of the Navy is a matter now solely within the jurisdiction of the Committee on Naval Affairs, and that if it is desired to increase the number of ships or vessels of any particular class within the Naval Establishment hereafter, the requirements of that rule will make it necessary that there be specific or general legislation authorizing it.

The Chair is not aware of any such legislation nor has any been called to his attention, which would permit the increase provided for in the amendment. Therefore, the Chair sustains the point of order.

The Chair would state that under the former rules, as interpreted, the addition of an additional ship in an appropriation bill was held to be in order as the continuation of a public work. The rules now require that the increase of ships and vessels of the Navy shall go to the Committee on Naval Affairs.

1352. An appropriation for equipment of a naval dry dock already in existence was held to be in continuation of a public work.

On February 12, 1921,¹ the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read a paragraph making appropriation for the navy yard at Puget Sound, Wash., including the following:

Keel blocks for Dry Dock No. 2, \$6,500.

Mr. Fred E. Britten, of Illinois, made a point of order that the expenditure was legislation and said:

Keel blocks are a mechanical equipment that go into a yard, and the reason for this \$6,500 for keel blocks is because of the heavier vessels that go in there. It is brand new material in the shape of new equipment, and it is legislation on an appropriation bill.

The Chairman² decided:

It seems to the Chair that the gentleman's statement really indicates that this is for a dock already in existence, and to facilitate the docking of different types of vessels than those which have heretofore been berthed there, and that the appropriation is authorized, under the gentleman's own statement. The point of order is overruled.

1353. An appropriation for continuing development of a submarine base was held to be in continuation of a work already in progress.

On March 21, 1924,³ the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. Willis C. Hawley, of Oregon, offered the following amendment:

For continuance of the development of a submarine and destroyer base, Columbia River, Oreg., \$350,000.

Mr. Burton L. French, of Idaho, made the point of order that there was no law authorizing the proposed expenditure.

The Chairman⁴ ruled:

The gentleman from Oregon offers an amendment, which reads as follows:

"For continuance of the development of a submarine and destroyer base, Columbia River, Oreg., \$350,000."

¹Third session Sixty-sixth Congress, Record, p. 3089.

²Joseph Walsh, of Massachusetts, Chairman.

³First session Sixty-eighth Congress, Record, p. 4656.

⁴William J. Graham, of Illinois, Chairman.

The gentleman from Oregon submits in support of his contention that it is a proper amendment; that it is an appropriation in continuance of an appropriation for a public work already in progress.

The naval act passed in 1920 contains this provision:

“Submarine and destroyer base, Columbia River: Toward the development of a submarine and destroyer base, and the Secretary of the Navy is hereby authorized to accept from the city of Astoria, Oreg., free from encumbrances and conditions and without cost to the United States Government, a certain tract of land at Tongue Point, Columbia River, for use as a site for a naval submarine and destroyer base, and containing 115 acres, more or less, of hard land and 256 acres of submerged land, \$250,000.”

There is in this particular section which the Chair has read no limit as to the cost of that improvement. Congress did not attempt in this legislation to limit the cost of that improvement, but simply appropriated \$250,000 to start the project, namely, the development of a submarine and destroyer base by acquiring certain land. It says “accept from the city of Astoria, Oreg., free from any encumbrance and conditions without cost a tract of land at Tongue Point.” Now, this amendment is in order in the judgment of the Chair. Just what the appropriation can be used for is a matter of administration, but the Chair is of opinion that, judging by the language of the original appropriating act, this present appropriation can only be used to carry out the purposes made in the original appropriation and the only work that can be conducted under this appropriation would be the work authorized by the section which the Chair has just read. The question as to whether a new building might be built or some other construction does not arise. It is sufficient to say that the amendment is framed in the language of the original statute and is properly a continuation of work in progress. The Chair overrules the point of order.

1354. The construction of a new building at a military post was held not to be in continuance of a public work.

On February 1, 1909,¹ the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and this paragraph had been reached:

Buildings on Corregidor Island, Philippine Islands: For the construction on Corregidor Island, Philippine Islands, of storehouses for the Quartermaster's, Subsistence, Ordnance, and Medical departments of the army, \$250,000.

Mr. Robert B. Macon, of Arkansas, raised a point of order on the paragraph. The Chairman² said:

The Chair is ready to rule, and in doing so he merely sustains the opinion of his many predecessors in the chair.

The Chair has nothing to do with the propriety or wisdom of this appropriation; but it has been held that the construction of barracks in a navy yard was not a continuation of a public work; that an appropriation for a naval prison was not a continuation of a public work; that an appropriation for officers' quarters and an appropriation for a hospital in a navy yard was not a continuation of a public work. At the very last session of this Congress, in February, 1908, one of the most distinguished parliamentarians of this body, who is soon to become Vice President of the United States, sustained a similar point of order against an appropriation for the completion of a building at the Engineers' School at Washington, stating that the tendency of the decisions on this point was strictly to the enforcement of the rule, departing somewhat from what he regarded as perhaps a certain laxity in former decisions.

In view of the whole tenor of the recent decisions, the Chair feels that he is bound by the opinions of his predecessors, and must sustain the point of order.

¹Second session Sixtieth Congress, Record, p. 1702.

²James B. Perkins, of New York, Chairman.

1355. While a proposition to enlarge an existing public building is in order as continuation of a public work, an appropriation for the “extension” of a building is not in order if it is in fact a proposition for a new building.

On April 7, 1910,¹ the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

For the extension of the marine barracks, naval station, Olongapo, Philippine Islands, \$55,000.

Mr. John J. Fitzgerald, of New York, in making a point of order, said:

I wish to call the attention of the Chair to the distinction that has been made as to barracks. To enlarge an existing building has been held to be in order, but to authorize a new building is not. I imagine some very careful and well-informed gentlemen in the department devised the term “extension of marine barracks” in the hope that he might avoid the rules of the House and obtain what might otherwise not be obtainable under the rules.

If this be to enlarge a building, it should be so stated; if it be not to enlarge a building, it is not in order. The committee should know what it is proposed to do with the money they are asking the House to appropriate. If they can not tell what purpose this money is to be used for, it is very difficult for anybody else to determine. The term “extension of marine barracks” is not used with the same meaning as the expression “to enlarge a building that already is occupied as barracks.”

The Chairman² ruled:

On the naval appropriation bill last year an item was carried, “Barracks quarters, Marine Corps: To complete the marine barracks, Philadelphia, Pa.” To that a point of order was made and the Chair sustained the point of order. The Chairman at that time was the present occupant of the chair.

An item was then offered to extend the marine barracks by the addition of a wing at the navy yard at Philadelphia, to which a point of order was made. The present occupant of the chair, then the occupant of the chair, overruled the point of order on the ground that to extend a building already constructed was in order, there being no limit of cost upon the original building, but that to provide for a new building in an appropriation bill not authorized by law was subject to a point of order. And as the Chair is informed that this is not for an extension of an existing building, but is for the construction of a new building as an extension of the barracks, the Chair is required to sustain the point of order.

1356. Provision for the construction of a new boathouse at the Naval Academy was held not to be in order in an appropriation bill as a continuation of a public work.

On March 24, 1928,³ during consideration of the naval appropriation bill, in the Committee of the Whole House on the state of the Union, this amendment was offered by Mr. Stephen W. Gambrill, of Maryland:

Naval Academy, Annapolis, Md.: Construction of boathouse, limit of cost, \$250,000.

Mr. James T. Begg, of Ohio, raised a question of order as to authorization.

After debate on the contention that the appropriation was admissible because in continuation of a public work, the Chairman⁴ ruled:

¹ Second session Sixty-first Congress, Record, p. 4392.

² James R. Mann, of Illinois, Chairman.

³ First session Seventieth Congress, Record, p. 5331.

⁴ Carl R. Chindblom, of Illinois, Chairman.

The Chair has given consideration to the question and finds that the general law for the establishment of the Naval Academy is more destitute of detailed provisions with reference to legislation and appropriations for the academy than are most laws concerning establishments of the Government. Under well-established precedents the construction of a new building, when not specifically authorized by prior legislation, has been held not to be a continuation of a public work and has been held subject to a point of order when appearing in or offered as an amendment to an appropriation bill.

On February 1, 1909,¹ during consideration of the Army appropriation bill, the Chairman of the Committee of the Whole held the construction of storehouses in the Philippine Islands, for the use of various departments in the Army, out of order. The Chair then said:

“The Chair has nothing to do with the propriety or wisdom of this appropriation, but it has been held that the construction of barracks in a navy yard was not a continuation of a public work; that an appropriation for a naval prison was not a continuation of a public work; that an appropriation for officers’ quarters and an appropriation for a hospital in a navy yard was not a continuation of a public work.”

On February 12, 1921,² during consideration of the naval appropriation bill, the Chairman held an appropriation for a new storehouse for ordnance at the navy yard at Puget Sound not in order as in continuation of a public work.

The Chair is therefore constrained to sustain the point of order.

1367. Propositions for a new “storehouse” and for “additional storage facilities” were respectively held not to be in order on an appropriation bill as in continuation of a public work.

On February 12, 1921,³ the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The paragraph providing for the navy yard at Puget Sound having been reached, Mr. Fred A. Britten, of Illinois, made a point of order against a provision in the paragraph for a “storehouse of ordnance.”

The Chairman⁴ held:

The gentleman from Illinois makes the point of order against the language, “storehouse for ordnance, \$95,000.” The Chair is of the opinion that the question of a new building at navy yards has up to the present time been considered somewhat differently from other activities in navy yards. Section 3758 of Hinds’ Precedents holds that an appropriation for quarters for the commandant at the navy yard was subject to a point of order, and furthermore that other new buildings provided for in appropriation bills for which there has been no specific authority have been held to be not authorized on general appropriation bills for the Naval Establishment. So, upon the authority of section 3758 of Hinds’ Precedents and decisions following which have been made since that time, the Chair sustains the point of order.

Thereupon Mr. Patrick H. Kelley, of Michigan, offered the following amendment:

Additional storage facilities, \$95,000.

A point of order against the amendment made by Mr. Britten was overruled by the Chairman, but on the following Monday, when the bill was again under consideration, the Chairman said:

If the committee will indulge the Chair for a moment, the Chair desires to state that on Saturday he made a ruling holding in order certain amendments providing for additional storage

¹ See. 1354 of this work.

² Sec. 1357, *ibid*.

³ Third session Sixty-sixth Congress, Record, p. 3090.

⁴ Joseph Walsh, of Massachusetts, Chairman.

facilities and additional facilities. The Chair feels, upon further reflection, he erroneously held those amendments in order, and he believes that the ruling which he made should not be construed to overrule the precedents which had previously been set, and he regrets the decision has been made and feels it ought not to be held as a precedent overruling previous precedents.

1358. While appropriations for erection of new school buildings in the District of Columbia are not in order on appropriation bills, propositions for continuing the erection of additions to existing school buildings are admitted as in continuation of public work in progress.

On January 6, 1923,¹ the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read the following:

Continuing the construction of an addition to the Armstrong Manual Training School \$200,000.

A point of order reserved on the paragraph by Mr. Thomas L. Blanton, of Texas, was overruled by the Chairman.²

The Clerk then read:

For beginning the erection of a 16-room building, including a combination assembly hall and gymnasium, to replace the old John F. Cook School, \$100,000, and the commissioners are hereby authorized to enter into contract or contracts for such building at a cost not to exceed \$250,000.

A point of order raised by Mr. Blanton, that the paragraph was unauthorized legislation was sustained by the Chairman.

1359. An appropriation for installation of a refrigerating plant at the District of Columbia morgue was held to be in order as in continuance of a work in progress.

On May 1, 1924,³ the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A point of order raised by Mr. Thomas L. Blanton, of Texas, on a paragraph of the bill providing an appropriation for the installation of a refrigerating plant at the morgue was overruled by the Chairman⁴ on the ground that it was in continuation of a public work in progress.

1360. The purchase of adjoining land for a work already established was held to be in continuation of a public work.

An appropriation for purchase of additional adjacent land to be added to a target range was held to be in order on an appropriation bill.

On February 1, 1909,⁵ the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Robert B. Macon, of Arkansas, raised a point of order on the following paragraph:

Shooting galleries and ranges: For shelter, shooting galleries, ranges for small-arms target practice, repairs, and expenses incident thereto, such ranges and galleries to be open, as far as practicable, to the national guard and organized rifle clubs under regulations to be prescribed by

¹ Fourth session Sixty-seventh Congress, Record, p. 1382.

² Frederick C. Hicks, of New York, Chairman.

³ First session Sixty-eighth Congress, Record, p. 7658.

⁴ William J. Graham, of Illinois, Chairman.

⁵ Second session Sixtieth Congress, Record, p. 1700.

the Secretary of War, \$155,576.50: *Provided*, That \$41,000 of this amount may be used for the acquisition of approximately 320 acres of land adjacent to Fort Leavenworth, Kans., as an addition to the target range, provided, that the funds herein provided, or as much thereof as may be necessary, shall be immediately available.

The Chairman ¹ held:

In reference to the point of order that is raised, the Chair is of opinion that a certain portion of the paragraph is subject to a point of order, but only a certain portion. The first portion provides that \$41,000 of the amount may be used for the acquisition of 320 acres of land. The Chair understands that the target range has been acquired by provision of law, and there is no limitation upon the appropriation. In view of that, the Chair thinks that the acquisition of 320 acres adjacent thereto and forming a part of it, under the rules of the House and its procedure, is not subject to a point of order. The Chair will, however, state that the second proviso is subject to the point of order if the point of order is insisted upon. The Chair refers to that portion of the section which provides that the funds herein provided, or so much thereof as may be necessary, shall be immediately available. Under that provision this appropriation should go on the deficiency appropriation bill; and therefore, if the point of order is insisted upon against the whole paragraph, it would be necessary to strike it out because the second portion is obnoxious to the rule.

1361. Purchase of land adjoining a work already established was held to be in continuation of a public work.

An appropriation for acquisition of ground adjacent to a school in the District of Columbia was held to be in order as a continuation of a public work.

On January 28, 1911,² the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was reached:

For the purchase of ground adjacent to the Corcoran School for the extension of said school approximately 7,200 square feet, \$9,000.

Mr. Ben Johnson, of Kentucky, made the point of order that there was no law authorizing the purchase.

The Chairman ³ ruled:

Can the gentleman from Kentucky cite the Chair to any law limiting the cost of this particular school building and its grounds? The paragraph to which the point of order is made is—

“for the purchase of ground adjacent to the Corcoran School for the extension of said school, approximately 7,200 square feet, \$9,000.”

Unless there has been a limit fixed by law upon the total cost of this building and its grounds the purchase of additional land should be held to be a continuation of a public work.

The Chair finds this principle laid down in the Manual under Rule XXI, on page 414, as follows:

“The purchase of adjoining land for a work already established has been admitted under this principle.”

Following the precedents, the Chair overrules the point of order.

¹ James B. Perkins, of New York, Chairman.

² Third session Sixty-first Congress, Record, p. 1598.

³ John Q. Tilson, of Connecticut, Chairman.

1362. The purchase of adjoining land for a work already established was held to be in continuation of a public work.

An appropriation for purchase of land adjoining a rifle range was held to be in continuation of a public work in progress.

On April 16, 1920,¹ the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and a point of order raised on a previous day by Mr. Martin B. Madden, of Illinois, was pending against the following amendment proposed by Mr. Carlos Bee, of Texas:

Provided, That there is hereby appropriated out of any money in the Treasury not otherwise appropriated, the sum of \$88,880 for the acquisition of land as an addition to the Leon Springs military reservation in Texas, heretofore authorized, and now in use as a target range for Camp Travis, Tex.

The Chairman² said:

On yesterday an amendment was offered by the gentleman from Texas to which a point of order was made by the gentleman from Illinois [Mr. Madden]. The question depended upon the facts of the case, in the judgment of the Chair. It was impossible to know at that time just what the facts were. The Chair has had an investigation made and is now ready to rule upon the point of order.

The paragraph of the bill under consideration to which this amendment was offered is as follows:

“For shelter, grounds, shooting galleries, ranges for small-arms target practice, machine gun practice, field-artillery practice, repairs, and expenses incident thereto, including flour for paste for marking targets, hire of employees, such ranges and galleries to be open as far as practicable to the National Guard and organized rifle clubs under regulations to be prescribed by the Secretary of War, \$50,000.”

There is no question but what the amendment offered is germane to the paragraph. The amendment provides for an appropriation of \$88,880 for the acquisition of land as an addition to the Leon Springs Military Reservation in Texas, heretofore authorized and now in use as a target range at Camp Travis in Texas.

Whether the point of order directed against the amendment should be sustained or overruled depends upon the facts in the case. If the purchase proposes the addition of a separate and distinct tract of land not adjoining and appurtenant to the Leon Springs Reservation, the point of order should be sustained; if the addition is adjacent to the Leon Springs Reservation it is in order as a continuation of a public work. There is no method of enlarging any public work that is situated as it must be upon lands except by amendment to existing law. It has been held that any continuation of an existing work is not subject to that point of order. This has been extended to include lands which are adjacent to that which has already been authorized by an act of Congress. The Chair has been informed in this case by the War Department that the land appropriated for in the amendment is not only adjacent to but is in fact within the present boundaries of what has been laid out and denominated the Leon Springs Reservation. Under those conditions the point of order must be, and is, overruled.

1363. While an appropriation for the purchase of a new site for a school building in the District of Columbia is not in order on an appropriation bill, a proposition for the purchase of land adjacent to school property was admitted as in continuation of a public work in progress.

Discussion as to the influence of precedent upon the rulings of the Chair.

¹ Second session Sixty-sixth Congress, Record, p. 5739.

² Horace M. Towner, of Iowa, Chairman.

On January 6, 1923,¹ the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union.

This paragraph was read:

For the purchase of a site on which to locate a 16-room building between Georgia Avenue and Sixteenth Street NW., north of Park Road, \$60,000.

A point of order against the paragraph made by Mr. Thomas L. Blanton, of Texas, was sustained by the Chairman.

Immediately thereafter this amendment was offered by Mr. Louis C. Cramton, of Michigan:

For the purchase of additional land for school purposes adjacent to the Langley Junior High School, \$215,000.

Mr. Blanton having made the point of order on the amendment, the Chairman² said:

The Chair recognizes the great force of the argument, and perhaps if this came before the Chair for the first time this afternoon he would agree to that contention, because the Chair thinks that some of these precedents are entirely too broad. But there they are as a part of the proceedings of this House, and it is the custom of the Chair to comply as nearly as he can with the precedents. In the opinion of the Chair there are one or two cases absolutely parallel with this case where it was held that it is in order to purchase land adjacent to an existing public work. It does not require it to be stated that there is an emergency existing, or that the work to be done is to be exactly similar to the work that is already going forward. In view of these precedents the Chair is going to hold this amendment in order and overrule the point of order.

1364. While the purchase of adjoining land for a work already established is held to be in continuation of a public work, the purchase of land not contiguous is not so construed.

On March 27, 1924,³ the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. C. B. Hudspeth, of Texas, proposed an amendment as follows:

That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$366,000 for the acquisition of 3,613 acres of land adjoining the Fort Bliss Military Reservation in Texas, as an addition to said Fort Bliss Military Reservation, for maneuvering and drill grounds, target practice, artillery practice, and other military purposes.

Mr. Daniel R. Anthony, jr., of Kansas, raised a question of order on the amendment.

The Chairman⁴ ruled:

After wandering for a long time through the intricate maze of conflicting decisions relating to limitations, germaneness, and the Holman rule, it is really a joy to come out into the open sunshine where there is but one line of decisions and be able to follow this line. In reading the bill the Clerk had reached the item "Shooting galleries and ranges." This paragraph, among other things, provides ranges for small-arms target practice, and so on. To this paragraph the gentleman from Texas offers an amendment in effect providing for the acquisition of 3,600 acres of land adjoining the Fort Bliss Military Reservation in Texas as an

¹ Fourth session Sixty-seventh Congress, Record, p. 1382.

² Frederick C. Hicks, of New York, Chairman.

³ First session Sixty-eighth Congress, Record, p. 5084.

⁴ John Q. Tilson, of Connecticut, Chairman.

addition to said Fort Bliss Military Reservation for maneuvering, drill ground, target practice, artillery practice, and other military purposes. It is conceded that this is a reservation established by law. While, technically, this might not be considered a proper amendment to this particular paragraph, the Chair does not now decide as to that point. If ruled out on such a point it could be immediately offered as a new paragraph, so that there would be nothing gained by overruling a technical point of order. The Chair prefers to decide the point of order upon its parliamentary merits.

The line of decisions is not a very long one, but this line has been uniform and is founded upon the principle, as the Chair believes, that a great public work having been begun it should not be possible for any one individual by making a point of order to prevent the expanding of that public work. In the case of schools additional ground might be needed for playgrounds. In the case of hospitals additional ground might be needed, and in the case of target ranges, undoubtedly, as indicated by the gentleman from Missouri [Mr. Cannon], year after year we have had to add to such reservations for the purpose of increasing the territory of our target ranges. The principle is that the Government having begun a work it should be able to proceed to enlarge it as the proper demands make necessary. From the parliamentary viewpoint it is immaterial whether the proposed additional land is a few feet or a million acres. It is the principle upon which the precedents are based, and the present occupant of the chair does not feel inclined to override such a principle.

Nothing would be gained, as the Chair sees it, by submitting the question to the decision of the membership of the House. There is nothing to prevent the committee from overruling the present decision of the Chair, with or without reason, as has been done in times past. Naturally, individual Members of the House oftentimes are influenced by the merits of the proposition. It is impossible to free themselves from such an influence, and no criticism is intended in referring to it here. If the membership of the House feel inclined to overrule the decision of the Chair in this particular case on account of the merits of the proposition, the present occupant of the Chair is not at all sensitive about such things, because he tries to rule according to what he believes to be right and best from the parliamentary standpoint, to maintain the orderly procedure of this House as it should be for the public good. Beyond this he is not at all concerned. The merits of the proposition in all cases should stand upon their own bottom. The Chair overrules the point of order.

Whereupon Mr. Elmer Thomas, of Oklahoma, offered this amendment:

For the purchase of a parcel of land containing forty-three and six-tenths acres more or less, lying adjacent to the north of the Canadian River in section 36, township 13 north, range 8, west of the Indian meridian in Canadian County, Okla. Said tract located directly opposite the Fort Reno pumping plant, and to be more particularly described in the instrument of conveyance. Said tract when acquired to be added to the Fort Reno Military Reservation, and to be used in an effort to straighten the course of the said North Canadian River, not to exceed \$3,500.

A point of order made by Mr. Anthony against the amendment was sustained by the Chairman, as follows:

The Chair feels constrained to sustain the point of order on the ground that the land proposed to be acquired is not contiguous to any land owned by the Government.

1365. An appropriation for repair of a Government owned road was held to be in continuation of a public work.

On January 10, 1910,¹ the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. John T. Hull, of Iowa, offered an amendment, as follows:

For repairs and maintenance of military post-roads, bridges, and trails in the district of Alaska, \$100,000.

¹ Second session Sixty-first Congress, Record, p. 494.

Mr. Robert B. Macon, of Arkansas, reserved a point of order on the amendment.

Mr. James R. Mann, of Illinois, contended that as the road for which the appropriation was proposed was a Government road, repairs for it were in the same class with repairs for Government buildings and were in order as in continuation of a public work.

The Chairman ¹ said:

Accepting the statement of the gentleman from Iowa, chairman of the Committee on Military Affairs, and the proposer of the amendment, that these improvements which this amendment proposes to maintain and repair were built by the Government and paid for, not out of the Alaska fund provided by the act of 1905, but out of moneys appropriated in general appropriation acts by Congress, and paid out of the General Treasury, the Chair thinks that this amendment may be sustained. This amendment does not, like the original paragraph, refer at all to the set of 1905, which, as already shown, provided for the construction of wagon roads and pack trails to be paid for out of the Alaska fund, composed of license taxes locally collected. This amendment does not refer to such improvements built under that act, but provides for the maintenance of military and post roads, and so forth, already constructed by the Government out of funds appropriated by Congress from the General Treasury. The Chair therefore thinks the amendment in order and overrules the point of order.

1366. An appropriation for protection of a road owned and repaired by the Government is in order on an appropriation bill as a continuation of a work in progress.

On May 26, 1910,² the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Napoleon B. Thistlewood, of Illinois, offered an amendment as follows:

For the completion of a protective fence along the roadway leading from Mounds to the national cemetery near Mound City, Pulaski County, Ill., and for the drainage of the ponds or borrow pits caused by the construction of said roadway, \$3,000, to be expended under the Quartermaster-General.

Mr. John J. Fitzgerald, of New York, having reserved a point of order on the amendment, the Chairman ³ held:

The amendment offered by the gentleman from Illinois is—

“For the completion of a protective fence along the roadway leading from Mounds to the national cemetery near Mound City, Pulaski County, Ill., and for the drainage of the ponds or borrow pits caused by the construction of said roadway, etc.”

Clause 2 of Rule XXI authorizes an appropriation in continuation of appropriations for such public works and objects as are already in progress. Of course it is a question of fact whether this is a public work in progress, but the Chair understands from the statements of gentlemen that this is a road owned and constructed by the United States under the general appropriations for repair of roadways to national cemeteries, and that a part of this fence has been constructed for that purpose. The ponds or borrow pits caused by the construction of said roadway, of course, are necessarily, or assumably necessarily, made by reason of the construction of the road, and hence are a part of the construction of the road and go with the construction of the road.

It seems to the Chair, under the circumstances, that it is clearly a road owned and repaired by the General Government and is a work that is in progress, and that the point of order is not well taken; and the Chair therefore overrules the point of order.

¹Marlin E. Olmsted, of Pennsylvania, Chairman.

²Second session Sixty-first Congress, Record, p. 6935.

³James R. Mann, of Illinois, Chairman.

1367. While repairs of buildings used in the public service are held to be in continuation of a public work, improvements for such buildings do not come within the rule.

An appropriation for repairs and other expenses for the care, preservation, and improvement of the public buildings and grounds of the Weather Bureau was held not to be in order on an appropriation bill.

On March 1, 1912,¹ the agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read:

Contingent expenses, Weather Bureau: For fuel, lights, repairs, and other expenses for the care, preservation, and improvement of the public buildings and grounds of the Weather Bureau in the city of Washington; for stationery and blank books, furniture and repairs to same, and freight and express charges; for subsistence, care, and purchase of horses and vehicles, and repairs of harness, for official purposes only; for advertising, dry goods, twine, mats, oils, paints, glass, lumber, hardware, ice, washing towels, and other miscellaneous supplies and expenses not otherwise provided for in the city of Washington, \$25,000.

Mr. William A. Cullop, of Indiana, raised a question of order on the words “and improvement” as contained in the paragraph.

The Chairman² ruled:

In the opinion of the Chair the words “and improvement” are entirely too broad. They do not appear to refer to existing work and they are not appropriate for that purpose. And the statement of the gentlemen from South Carolina on the provisions of the previous appropriation bill seems to bear out that idea. While the amount carried is small and might not justify all the gentleman from Indiana has said, it is unquestionably true the words are entirely too broad, and the point of order is sustained.

The Chair will say that under section 3752 of Hinds' Precedents there appears a ruling on April 10, 1900, to the effect that an appropriation for a new building on the Agricultural Department grounds was subject to a point of order, appearing in an appropriation bill.

The language used in this appropriation bill, the simple words “an improvement,” in the opinion of the Chair, would justify anything that was classed as an improvement of real estate, and certainly it would be a very broad use of language. That being true, if the language is limited to a specific building or specific repairs, the point of order would not lie. The ruling of the Chair is that the point of order is sustained.

1368. The repair of buildings other than those owned by the Government was held not to be in continuation of a public work.

An appropriation for the installation of a heating plant in a privately owned building rented by the Government is not in order on an appropriation bill.

On September 19, 1919,³ the deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Otis Wingo, of Arkansas, made a point of order against the following provision in the bill:

And heating apparatus for and repairs to buildings (outside of the State, War, and Navy Department Building) occupied by the War Department and its bureaus.

¹ Second session Sixty-second Congress, Record, p. 2693.

² William P. Borland, of Missouri, Chairman.

³ First session Sixty-sixth Congress. Record. p. 5570.

The Chairman ¹ decided:

The point of order is made to the language:

“Heating apparatus for and repairs to buildings (outside of the State, War, and Navy Department Building) occupied by the War Department and its bureaus.”

In the view of the Chair this calls for the expenditure of money upon other than Government property, and unless there is statutory authority for such an expenditure of money that language, in the opinion of the Chair, is subject to a point of order, and the point of order is sustained.

1369. The maintenance of any physical property of the Government is in order as a continuation of a public work in progress, and express legislative authorization is unnecessary.

The existence of a fort used in the Government service is sufficient authorization for an appropriation for its protection and preservation.

On April 13, 1920,² the fortifications appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. James W. Overstreet, of Georgia, offered this amendment:

For the protection of the shores of Fort Screven, Ga., \$500,000.

Mr. Martin B. Madden, of Illinois, having raised a question of order, Mr. Joseph W. Byrns, of Tennessee, said:

There has been no legislation authorizing the construction of this sea wall, but I submit that where a public improvement exists Congress has authority without express legislation to make an appropriation to keep it in order and to preserve it, and that is all this amendment does.

There is a fort at Fort Screven, Ga. This is to keep the reservation from washing away and protect the armament.

The Chairman ³ overruled the point of order.

1370. A proposition to repair a public building is in order as a continuation of work in progress if such repairs are for the use and purpose for which the building was originally provided, but not otherwise.

An appropriation to render serviceable an additional story of a building provided for the use of the Court of Appeals of the District of Columbia was admitted as in continuation of a public work in progress, but a similar appropriation to adapt this portion of the building for accommodation of the recorder of deeds was ruled out of order.

A proviso that an appropriation for repair of a building not within the jurisdiction of the Superintendent of the Capitol Building and Grounds should be expended under his direction was held to propose legislation.

On December 17, 1920,⁴ the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was read:

Court of Appeals Building: For fitting up the top story and basement of the Court of Appeals Building to provide accommodations for the office of the recorder of deeds, including material and labor and each and every item incident to such work, \$22,000, to be available immediately. This

¹ Joseph Walsh, of Massachusetts, Chairman.

² Second session Sixty-sixth Congress, Record, p. 5629.

³ Rollin B. Sanford, of New York, Chairman.

⁴ Third session Sixty-sixth Congress, Record, p. 492.

work and the expenditure of this sum shall be under the supervision and direction of the Superintendent of the Capitol Building and Grounds.

Mr. Joseph Walsh, of Massachusetts, having raised a point of order on the paragraph, Mr. Louis C. Cramton, of Michigan, maintained:

Mr. Chairman, the rule provides the exception that an expenditure in continuation of appropriations for such public works and objects as are already in progress shall be in order.

The Court of Appeals Building was authorized several years ago, and an appropriation was made. The building has been largely completed, but there is a large space on the third floor and some room in the basement that has not been finished up and completed. We have heretofore made an appropriation of \$6,000 a year for rental for offices for the register of deeds, and it seemed wise to the committee, since we had this space available in the Court of Appeals Building, to make use of that space rather than to pay \$6,000 a year for space in a private building; and hence we recommended an appropriation of \$22,000, which we were advised would be sufficient to complete the building, and if it is made immediately available we are advised the building can be completed and made suitable for the purposes desired by the 1st of July, and the appropriation of \$6,000 for office rental would be unnecessary. I want to call the attention of the Chair to the language of the original appropriation:

“For the erection of a fireproof addition to the courthouse of the District of Columbia, for the use of the Court of Appeals of said District, including such fireproof vaults that may be necessary to protect from destruction the papers and records of said court, and proper heating and ventilating apparatus, to be constructed under the supervision of and on plans to be furnished by the Superintendent of the Capitol Building and Grounds, and approved by the Attorney General, \$200,000 is authorized.”

I urge that the appropriation here is simply for continuing the project.

The Chairman ¹ ruled:

The Chair realizes that there is a good deal of latitude used in the matter of the continuation of work on public buildings, but in view of the fact that the law mentions that this building shall be erected for the Court of Appeals, and no mention is made of the office of the recorder of deeds, the Chair feels that the point of order is well taken, and so rules.

Whereupon Mr. Cramton offered the following amendment:

Court of Appeals Building: For fitting up the top story and basement of the Court of Appeals Building, including material and labor and each and every item incident to such work, \$22,000, to be available immediately. This work and the expenditure of this sum shall be under the supervision and direction of the Superintendent of the Capitol Building and Grounds.

Mr. Walsh again raised the question of order.

The Chairman said:

In sustaining the point of order a few moments ago made against the paragraph by the gentleman from Massachusetts, the Chair based his decision on the fact that the law authorizing the construction of the building did not contemplate or include the office of the recorder of deeds. While this objection was sufficient in the opinion of the Chair to sustain the objection, the last part of the paragraph, which is evidently legislation, would have been sufficient grounds to render a similar decision had the objection been made. In the amendment offered by the gentleman from Michigan the objection on which the Chair's previous ruling was based has been removed. It seems clear to the Chair that if the completion of the building by fitting up certain portions of it, or even if an addition was contemplated, no objection could lie against the amendment, and to fortify this opinion the Chair cites paragraph 3774, Volume IV, of Hinds, where “the purchase of additional ground and the erection of an addition to an existing building was held to be in continuation of a public work.” Clearly, if an addition is in order, the fitting up of

¹Frederick C. Hicks, of New York, Chairman.

offices is in order, and the Chair could cite other rulings, for, as the gentleman from Illinois has said, it has been held a number of times that an addition to an authorized building is in order on an appropriation bill. The Chair feels that the objection raised because of the words "to be immediately available" is not well founded, for it would appear that the immediate rendering available of funds is within the province of the Appropriations Committee. The last clause, however, which states "it shall be under the direction of the Superintendent of the Capitol Buildings and Grounds," in the opinion of the Chair taints the entire amendment, for it is legislation on an appropriation bill, and on this count the Chair sustains the point of order.

1371. Appropriations for rent of buildings used in the public service, even though isolated from the Government establishment with which connected, are in continuation of a public work and in order on appropriation bills.

On February 11, 1921,¹ the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Fred A. Britten, of Illinois, raised a question of order on an appropriation "for rent of buildings and offices not in navy yards."

Mr. Patrick H. Kelley, of Michigan, cited in support of the item the decision reported at section 3777 of Hinds' Precedents.

The Chairman² ruled:

The gentleman from Illinois makes the point of order against the language "for rent of buildings and offices not in navy yards." Under the decision cited by the gentleman from Michigan the Chair there held that an appropriation for the repair of buildings was an appropriation for the continuance of public works, and the Chair feels that under the precedent established the language is in order and therefore overrules the point of order.

1372. An appropriation for improvement of a quarantine station, including the building of wharves, was held to be in continuation of a public work.

To a bill containing two items appropriating for quarantine stations an amendment proposing an appropriation for another quarantine station was held to be germane.

On May 23, 1921,³ the deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, and the Clerk had read two paragraphs providing appropriations for the improvement of quarantine stations at New York and Boston respectively.

Mr. John Philip Hill, of Maryland, offered the following amendment.

Baltimore, Md., Quarantine Station: For improvements, including the building of wharves, to continue available during the fiscal year 1922, \$75,000.

Mr. Thomas L. Blanton, of Texas, made the point of order that the amendment was legislation and was not germane.

The Chairman⁴ ruled:

The gentleman from Maryland offers this amendment: "Baltimore quarantine station: For improvement, including rebuilding of wharves, to continue available during the fiscal year 1922, \$75,000."

¹Third session Sixty-sixth Congress, Record, p. 3013.

²Joseph Walsh, of Massachusetts, Chairman.

³First session Sixty-seventh Congress, Record, p. 1655.

⁴Philip P. Campbell, of Kansas, Chairman.

To that amendment the gentleman from Texas makes a point of order that it is legislation on a deficiency appropriation bill. The amendment is a germane amendment to an item in the bill; the Chair thinks it is in order. Being an appropriation for repairs on Government property, it would be in order as an independent item, and the Chair overrules the point of order.

1373. An appropriation for the paving of street in the District of Columbia was held to be in continuation of a public work.

On May 3, 1924,¹ the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

Northwest: For paving Varnum Street, Second Street to Fourth Street, 30 feet wide, \$11,600

Mr. Thomas L. Blanton, of Texas, made the point of order that the paragraph proposed legislation.

The Chairman² said:

The statute specifies how the estimates shall be made to Congress, and provides that in submitting the schedules of streets and avenues to be improved the commissioners shall arrange such streets and avenues in the order of their importance, and so forth. That estimate, of course, goes to the Congress. Then the Congress passes upon the matter as to how far it shall go in providing the money for these purposes. The gentleman from Texas says that special authority should be given by the District Committee for such work. However, the Chair finds on a hasty examination of the authorities as given in the House Manual the following citations which the Chair has not had time to look up, but assumes properly bear out the syllabus:

“But appropriations for rent and repairs of buildings, for Government roads, and purchase have been admitted as in continuation of a work, although it is not in order as such to provide for a new building in place of one destroyed.”

The Chair has referred to the opinion in *Fourth Hinds*, paragraph 3779, which was a proposition to repair a pavement originally laid in that case in the city of Chicago, where a pavement had been laid by the Government adjacent to a Federal building in that city. The opinion was by Mr. Watson, now Senator Watson, of Indiana, and it goes off on the proposition entirely as to whether this road was a Government road—that is, whether the fee of the road was in the Government or not—holding by implication that if the fee was in the Government, then it was a work in progress, but inasmuch as the fee was in the city of Chicago a point of order was good against such an appropriation. Now, the fee of the streets of the District of Columbia is in the United States; they are Government roads, existing works. *Corpus Juris* (vol. 18, p. 1373) cites the authorities upon this proposition, citing principally *Morris v. United States* (174 U. S. 196). The point of order is overruled.

1374. An appropriation for appliances necessary for the proper operation of a target was held to be in continuation of a public work.

On January 30, 1909,³ the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Robert B. Macon, of Arkansas, raised a point of order on this paragraph:

Annunciator buzzer systems at target ranges: For installation of annunciator buzzer systems at target ranges at Fort Ethan Allen, Vt.; Fort Niagara, N. Y.; Fort Leavenworth, Kans.; Fort Riley, Kans.; Fort Sam Houston, Tex.; Fort Sheridan, Ill.; Presidio of Monterey, Cal.; and Fort William McKinley, P. I., \$18,200.

¹First session Sixty-eighth Congress, Record, p. 7784.

²William J. Graham, of Illinois, Chairman.

³Second session Sixtieth Congress, Record, p. 1042.

The Chairman¹ ruled:

These ranges have all been authorized by law. There are a number of target ranges authorized by law and intended for the purpose of target practice for the improvement of marksmanship of the Army. Those have been established, and it seems to the Chair very clear that any ordinary appliance necessary for the proper practice of the men in the target ranges is not new legislation, but is continuing work that has been undertaken, and is perfecting a system that has already been established by Congress. It is evident that this installation of these buzzers is for the more rapid and more convenient record of the shots that have been made and for the information of those that are taking part in the practice. The Chair overrules the point of order.

1375. An appropriation for maintenance and equipment of public playgrounds in the District of Columbia was held in order on an appropriation bill as in continuation of a work in progress.

On December 17, 1909,² the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the following paragraph was reached:

Playgrounds: For repairs, equipment, and supplies, \$3,000.

Mr. Robert B. Macon, of Arkansas, made the point of order that there was no law authorizing the provision.

Mr. James R. Mann, of Illinois, said in debate:

Mr. Chairman, if the Government had purchased a site for a building and new grounds it would not be in order upon an appropriation bill to provide for the construction of a building, but if the Government had constructed a building upon ground already owned by it, it would be in order to provide for the maintenance of the building, for the cleaning of the building, and for the repair of the building. Now, a playground is not a building. That term means exactly what it says. It shows its purpose in its title. A playground is a playground, and when once acquired can be used and maintained without a building. If this proposition contemplated a building without authority of law, it would not be in order, but all it provides for is for repairs, equipment, and supplies. In the last appropriation act there was an item under the head "Playgrounds" for the improvement and equipment of the Georgetown site, \$5,000. As I understand it, we had already acquired the Georgetown site. There is a playground improved and equipped, and here is a proposition simply to carry on that work in the same way that we carry on the maintenance of a post-office building—clean it and sweep it, and provide it with janitor service, and with heat and light. It does not require a special act of Congress to provide for this, except in an appropriation act making available the money.

The Chairman³ ruled:

The question raised by this point of order is not whether the Government is compelled to maintain these playgrounds, but whether this proposed appropriation is in violation of the rule of this House against expenditures not previously authorized by law. There is a notable exception to the rule, namely, in the case of the continuation of appropriations for such public works and objects as are already in progress. There is no dispute that these playgrounds are already in progress or in operation. This bill proposes an appropriation for the repairs, equipment, and supplies for these playgrounds. In 1900, on December 30, when the Indian appropriation bill was under consideration, Mr. Joseph G. Cannon, of Illinois, offered an amendment to equip vessels of the Coast and Geodetic Survey. The same point of order was made there that is made

¹James B. Perkins, of New York, Chairman.

²Second session Sixty-first Congress, Record. p. 225.

³Marlin E. Olmsted, of Pennsylvania, Chairman.

here, but Mr. Boutell, of Illinois, then in the chair, overruled the point of order, and considered the equipment as in continuation of a public work already in progress.

Another case which has been cited and which seems to be directly in point is that of an appropriation for current repairs and improvements at the Botanic Gardens. A point of order was made against that upon the 22d of March, 1906, and it was held by the present occupant of the Chair, then as now occupying the chair in Committee of the Whole House on the state of the Union, that that was an appropriation in continuation of a public work.

The Chair has no doubt that this proposed appropriation to which this point of order is made comes fairly within the exception to the rule, and therefore overrules the point of order.

1376. On January 28, 1911,¹ the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

Playgrounds: For maintenance, repairs, including labor, equipment, supplies, and necessary incidental and contingent expenses, \$3,000.

Mr. Ben Johnson, of Kentucky, made the point of order that the paragraph was not authorized by existing law.

The Chairman² referred to a decision on a point of order made the preceding year against a similar paragraph, and said:

In the consideration of the district appropriation bill last year substantially the same question arose, and the Chair, in deciding the question at that time, used this language:

“The question raised by this point of order is not whether the Government is compelled to maintain these playgrounds, but whether this proposed appropriation is in violation of the rule of this House against expenditures not previously authorized by law. There is a notable exception to the rule, namely, in the case of the continuation of appropriations for such public works and objects as are already in progress. There is no dispute that these playgrounds are already in progress or in operation. This bill proposes an appropriation for the repairs, equipment, and supplies for these playgrounds. In 1900, on December 30, when the Indian appropriation bill was under consideration, Mr. Joseph G. Cannon, of Illinois, offered an amendment to equip vessels of the Coast and Geodetic Survey. The same point of order was made there that is made here, but Mr. Bouteu, of Illinois, then in the chair, overruled the point of order, and considered the equipment as in continuation of a public work already in progress.”

Following that line of argument, the Chair then overruled the point of order, and it seems clear to the Chair in the present case that these parks having been acquired by the Government and being now in use in the District of Columbia, an appropriation for their maintenance is in order. It is not the province of the Chair to decide whether the Government should maintain these parks out of the revenues derived wholly from the District or on the half-and-half plan. It is only for the Chair to decide whether or not this paragraph is in order. It seems to the Chair that these parks being owned by the Government, it is in order to appropriate for their maintenance. Therefore the point of order is overruled.

1377. An appropriation for supplying free schoolbooks for the use of pupils in the District of Columbia was held not to be in continuation of a work in progress.

An amendment qualifying or limiting a class of beneficiaries of an appropriation is germane to the paragraph providing the appropriation.

On January 28, 1911,³ the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. To

¹Third session Sixty-first Congress, Record, p. 1579.

²John Q. Tilson, of Connecticut, Chairman.

³Third session Sixty-first Congress, Record, p. 1597

a pending paragraph of the bill providing an appropriation to supply free textbooks to pupils Mr. Ben Johnson, of Kentucky, offered an amendment providing that free books should be supplied "for the use of indigent pupils" only.

Mr. Washington Gardner, of Michigan, made the point of order that the amendment changed existing law.

The Chairman ¹ ruled:

The gentleman from Kentucky offers an amendment which limits the appropriation for textbooks and school supplies to indigent pupils. It might be claimed that, so far as school supplies are concerned, there would be authority of law to appropriate the money, as for an object or a work in progress, similar to the authority for appropriating money for ammunition for guns for the Army, and that the supplies were properly for the use of all pupils who of right attend the schools; but to carry this contention to the further extreme and say that it would extend to textbooks would be a far-fetched ruling. There being no authority of law for providing textbooks for pupils, that provision would be subject to a point of order. It being subject to a point of order, then it is in the province of any gentleman to offer a germane amendment. To qualify, the class who may receive the textbooks is properly germane. The Chair holds that the amendment offered by the gentleman from Kentucky is germane and is in order. The point of order is therefore overruled.

1378. Appropriations for necessary repairs and expenses of playgrounds owned or maintained by the Government in the District of Columbia are in order on appropriation bills as continuations of work in progress.

On January 18, 1912,² the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Playgrounds: For maintenance, repairs, including labor, equipment, supplies, and necessary incidental and contingent expenses, \$3,000.

Mr. Ben Johnson, of Kentucky, reserved a point of order on the paragraph.

Mr. James R. Mann, of Illinois, said in debating the point of order:

It would not make any difference whether the Government owns the ground, or is in control of the ground and owns all the equipment on the ground. No other authorization is necessary. The Government may own a building on leased ground, as the Chair will readily see. If it owns a building upon leased ground, it is authorized to maintain the building. If it owns a playground upon leased ground, it is authorized to maintain the playground as a work already in progress. Unless the Government has provided in some way for the existence of the playground and the starting of the work, it would not be authorized to start it here; but the Government has heretofore provided appropriations for the purchase of playgrounds and for their equipment, and if the Government has equipped a playground, as it has under previous provisions, then it is in order to make an appropriation now to maintain the playgrounds heretofore equipped. My recollection is that that identical question has been ruled upon in previous years.

The Chairman ³ held:

The Chair understands that there are a number of playgrounds established by law in the District of Columbia. As to whether there are other playgrounds that are not officially recognized the Chair has no information, but the Chair must presume that in the administration of the law those chargeable with its administration will confine their expenditures to the legal, legitimate

¹ William H. Stafford, of Wisconsin, Chairman.

² Second session Sixty-second Congress, Record, p. 1093.

³ Finis J. Garrett, of Tennessee, Chairman.

playgrounds. The point made by the gentleman from Illinois that for the continuation of a work, if any, in progress—that is, for the maintenance of an existing work—it is in order to make appropriation, is certainly well buttressed by precedent. The Chair thinks that is a fair construction of the rule, and the Chair overrules the point of order.

1379. An appropriation for a reflecting pool in Potomac Park was held to be in continuation of a work in progress.

On June 20, 1919,¹ the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. James W. Good, of Iowa, offered an amendment as follows:

For commencing construction of a reflecting pool in West Potomac Park, \$200,000.

Mr. James P. Buchanan, of Texas, having raised a question of order, the Chairman² said:

As the appropriation is in pursuance of a work in progress, namely, the development of park work, the Chair thinks this amendment would not be subject to the point of order. It is in the nature of a work in progress of developing the park, and the Chair would hold the point of order is not well taken.

1380. An appropriation for improvements to an existing plant owned and operated by the Government was held to be in continuation of a work in progress.

On February 12, 1921,³ the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

Navy yard, Mare Island, Calif.: Maintenance of dikes and dredging, \$175,000; improvements to central power plant, \$150,000; in all, \$325,000.

In response to a point of order by Mr. Fred A. Britten, of Illinois, against the provision for “improvements to central power plant,” Mr. James R. Mann, of Illinois, said:

Mr. Chairman, if there is a building there, a power plant there, and there has been no limit of cost fixed by Congress, it is quite in order to make an appropriation to improve it or to add to it, or to put foundations under it or a roof over it or to put up side walls or inside walls and plaster them, as far as that is concerned.

The Chairman⁴ overruled the point of order.

1381. An appropriation for the grading and drainage of land owned by the Government in connection with a submarine base was held to be in continuation of a work in progress.

On February 12, 1921,⁵ the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

Submarine base, Coco Solo, Canal Zone: Grading and drainage, \$40,000.

¹First session, Sixty-sixth Congress, Record, p. 1477.

²Martin B. Madden, of Illinois, Chairman.

³Third session Sixty-sixth Congress, Record, p. 3089.

⁴Joseph Walsh, of Massachusetts, Chairman.

⁵Third session Sixty-sixth Congress, Record, p. 3093.

Mr. Fred A. Britten, of Illinois, submitted that the paragraph proposed legislation.

After ascertaining that the land in question was the property of the Government, the Chairman¹ overruled the point of order.

1382. The continuing of a topographical survey was held to be the continuation of a public work.

On December 29, 1922,² the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union when the Clerk read this paragraph .

For topographic surveys in various portions of the United States, including lands in national forests, \$324,500.

Mr. James T. Begg, of Ohio, having raised a question of order on the paragraph, Mr. James P. Buchanan, of Texas, called attention to a decision of a similar question made June 13, 1906.

The Chairman³ ruled:

The question presented has already been practically if not absolutely decided. The language in the case which has just been cited by the gentleman from Texas is almost identical with the language in the present clause in the appropriation bill. The language to which objection was made June 13, 1906, where this proposition before the House was "for topographical surveys in various portions of the United States, \$300,000, to be immediately available." Gentlemen will recognize the fact that that language is fully as broad as the language contained in the present appropriation bill. The Chair in the case cited overruled the point of order, although the situation was disclosed just as it has been disclosed here, and the objection made was, that the language authorizing the appropriation was not found in the existing law. The Chair, however, decided in that case that he would be unable to find justification for sustaining the point of order because it was shown that the work was a continuing work.

The Chair desires to call attention to the following language in section 603 of Barnes' Federal Code as a part of the chapter which has reference to the Geological Survey providing for various publications in the Geological Survey, and the publication of maps, and for other work of that character. As long as the Chair can find justification for it in previous decisions, and as long as he can find justification for it in the continuation of work already begun, and in this case especially when regard is had for the fact that this work is a continuing work, being carried on from year to year in cooperation with the States who are making contributions from State funds for carrying on the work, and in view of the fact that the Chair has no right to presume that money will be used illegally and without authority at law, the Chair overrules the point of order.

1383. The continuing of development of a public park in the District of Columbia was held to come within the rule as continuing a work in progress.

A provision admissible under the rule was ruled out of order on account of accompanying legislation.

On January 8, 1923,⁴ the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

For continuing the reclamation and development of Anacostia Park, to be extended in accordance with the plans specified in the item for the reclamation of the Anacostia River and Flats

¹ Joseph Walsh, of Massachusetts, Chairman.

² Fourth session Sixty-seventh Congress. Record, p. 1087.

³ Horace M. Towner, of Iowa, Chairman.

⁴ Fourth session Sixty-seventh Congress, Record, p. 1439.

contained in the District of Columbia appropriation act for the fiscal year 1919, \$150,000, to be expended below Benning Bridge.

Mr. Thomas L. Blanton, of Texas, made the point of order that the paragraph involved legislation.

Mr. Louis C. Cramton, of Michigan, explained:

Mr. Chairman, the item in question is an appropriation for the continuation of the reclamation and development of the Anacostia Park, and clearly it is an appropriation to continue an existing project. The work is under way, and this is simply to continue that work. The act of 1919 provided for this project, and provided for the levying of assessments, and so forth. Of course, the Chair is familiar with the fact that permanent law can be carried just as effectively in an appropriation act as in any other place. There may be some question as to the jurisdiction of the committee in reporting it which would make it subject to a point of order in the House, but if the point of order is not made and the bill passes and carries that language it is just as much permanent law as otherwise. This project began in 1915 or prior thereto.

The Chairman¹ ruled:

The Chair is in sympathy with the propositions that we pass upon very frequently in regard to the continuation of a public work already in progress, but it seems to the Chair that there is a degree of unwarranted legislation involved in this paragraph, and on that ground the Chair sustains the point of order.

Thereupon Mr. Cramton offered an amendment, as follows:

For continuing the reclamation and development of Anacostia Park, \$150,000, to be expended below Benning Bridge.

The Chairman overruled a further point of order presented by Mr. Blanton against the amendment and said:

The main objection to the item ruled upon before was the legislation in it, although the Chair did have some objection to the other feature of it; but on the broad-gauge plan that has been in practice in reference to public works the Chair will hold this amendment in order, because the amendment is relieved of the objectionable feature of the legislation.

1384. An appropriation for repairing and reconstructing the main conservatory in the Botanic Garden was held to be the continuation of a public work.

On February 24, 1923,² the third deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and this paragraph had been reached.

For repairing and reconstructing the main conservatory of the Botanic Garden, including personal services, labor, materials, and all other expenses incident to such work, fiscal years 1923 and 1924, \$117,365. The foregoing work shall be performed under the supervision of the Architect of the Capitol after consultation with the Director of the Botanic Garden.

Mr. William H. Stafford, of Wisconsin, reserved a point of order on the paragraph.

After debate, the Chairman³ ruled:

It is perfectly obvious that this appropriation is not for the construction of a new building. The language of the paragraph is quite plain: "For repairing and reconstructing" and it is quite

¹ Frederick C. Hicks, of New York, Chairman.

² Fourth session Sixty-seventh Congress, Record, p. 4562.

³ Clifton N. McArthur, of Oregon, Chairman.

apparent, in view of the facts that have been related and brought out in this discussion, that the reconstruction, in this instance, means nothing more than the putting in of necessary repairs. The Chair is of the opinion that this is nothing more than repairs, perhaps on a large scale, but none the less repairs in the interest of the safety of the people who may have occasion to visit this institution. The Chair, therefore, overrules the point of order.

1385. An appropriation for construction of bridges on Indian reservations was held not to be in continuation of work in progress.

On January 26, 1924,¹ the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. John Morrow, of New Mexico, offered an amendment proposing:

For the construction of steel bridges across the Rio Grande within the Cochiti and San Juan pueblo land grants, New Mexico, under the direction of the Secretary of the Interior, \$82,200: *Provided*, That such sum shall be reimbursed to the United States from any funds now or hereafter placed in the Treasury to the credit of the Indians of said pueblos.

Mr. Cramton thus raised a question of order:

Mr. Chairman, it is my information that we have never appropriated funds from the Treasury for building roads or bridges for the Indians; and this item, while it appears to be reimbursable, the gentleman freely admits that there is no prospect of it being reimbursed. Therefore I am obliged to make the point of order that the item is not authorized by existing law.

The Chairman² sustained the point of order.

1386. A proposition to transfer Government equipment to a place not designated was held not to be in order as continuation of a work in progress.

On March 21, 1924,³ the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Loring M. Black, jr., of New York, offered an amendment proposing the removal of a telephone exchange at the Brooklyn Navy Yard.

Mr. Thomas L. Blanton, of Texas, made the point of order that the proposition involved a change of law.

The Chairman⁴ held:

The amendment offered by the gentleman from New York reads:

"Transfer of yard telephone exchange from building No. 13 to some other place within the yard, to be designated by the commandant, \$10,000."

The only question is whether this might be held to be an appropriation in continuation of appropriations for public works and objects already in progress. The Chair does not know anything about the physical situation in this particular navy yard, but under this amendment it would be possible for the commandant to direct the taking of the telephone exchange out of building No. 13 and to even erect a suitable building for it at some other place within the yard and there house it. The Chair thinks it is plainly subject to a point of order, and therefore sustains the point of order.

¹First session Sixty-eighth Congress, Record, p. 1495.

²Cassius C. Dowell, of Iowa, Chairman.

³First session Sixty-eighth Congress, Record, p. 4656.

⁴William J. Graham, of Illinois, Chairman.

1387. An appropriation for the acquisition of land contiguous to a national park and conforming to the original purpose for which the park was established was held in order as continuing a work in progress.

On March 28, 1924,¹ the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. John E. Rankin, of Mississippi, proposed an amendment, as follows:

For the extension of a park through the acquisition, by purchase or otherwise, of a strip of land, contiguous to the park, 66 feet wide, to connect the Shiloh National Military Park and the Corinth (Miss.) National Cemetery; such land to be acquired along or near the present main road from the Shiloh National Military Park to the Corinth National Cemetery, located on the battle field of Corinth, the center of such strip to follow as nearly as practicable along the survey heretofore made by Park Engineer Thompson; and for the construction of a hard-surface road and necessary bridges along the center line of such strip from the park to the Corinth National Cemetery; and for the erection of historical markers along such strip to show the movements of troops and other matters of historical interest in connection with the Civil War Battles of Shiloh and Corinth; in all, \$70,000.

Mr. Daniel R. Anthony, jr., of Kansas, made the point of order that the expenditure was not authorized by law.

The Chairman² held:

It appears on the face of this amendment that it is simply an extension of the Shiloh National Park. Shiloh National Park is a park created by the Government to commemorate the great battle that took place on this ground. On the line of decisions referred to in a similar case yesterday, the Government can expand this park. The question arises whether the land to be acquired is for the expansion of the park. The land to be acquired is all land over which troops in this battle passed. It can not be ruled out on the ground that it is not proper land to be added to this park for the original purpose for which it was established, much as the Chair is included to limit this principle to where the land to be acquired is a proper extension of the original purposes for which the Government work was originally established. Therefore, in accord with all the precedents that have been made, the Chair feels constrained to hold that the amendment is in order.

1388. An appropriation for completion of a project previously authorized by law without limitation of cost was admitted as in continuation of a work.

On May 3, 1924,³ the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Thomas L. Blanton, of Texas, raised a question of order on the following paragraph:

For completion of trestle and bins in N Street NE., between First Street and Second Street, \$20,000.

Mr. Charles R. Davis, of Minnesota, explained:

Mr. Chairman, in the act of October, 1922, we appropriated \$20,000 for the completion of a trestle and bins at N Street NE., between First and Second Streets, and this is simply a continuation of that work and sufficient to carry out the provision.

The Chairman⁴ overruled the point of order.

¹First session Sixty-eighth Congress, Record, p. 5181.

²John Q. Tilson, of Connecticut, Chairman.

³First session Sixty-eighth Congress, Record, p. 7787.

⁴William J. Graham, of Illinois, Chairman.

1389. An appropriation for the construction of public bridges in the District of Columbia was held to be the continuation of a public work.

On May 3, 1924,¹ the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

For construction and repair of bridges, including an allowance at the rate of \$26 per month to the overseer of bridges for the maintenance of an automobile for use in performance of his official duties, and including maintenance of motor vehicles, \$30,000.

Mr. Thomas L. Blanton, of Texas, made the point of order that the provision for "construction" of bridges was legislation.

The Chairman² referred to a former decision³ on a similar question, and overruled the point of order.

1390. A proposition for the construction of a public bathing beach in the District of Columbia was ruled out of order as proposing legislation, but an appropriation to provide bathing facilities in a public park in the District was held to be in order as a continuation of work in progress.

On June 4 1924,⁴ the second deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and this paragraph had been reached:

For the construction and maintenance of a bathing beach and bathhouse for the colored population of the city, \$50,000, to remain available until June 30, 1925.

A point of order on the paragraph, presented by Mr. Thomas L. Blanton, of Texas, was sustained by the Chairman.²

Whereupon Mr. Martin B. Madden, of Illinois, offered the following amendment:

For construction and development work in Potomac Park, on the west shore of the Tidal Basin, to provide public bathing facilities and for the maintenance thereof, \$50,000, to remain available until June 30, 1925.

Mr. Blanton again interposed a point of order, contending that the amendment was a "subterfuge" to effect indirectly the purpose of the paragraph just stricken from the bill.

The Chairman said:

Whether or not this is a subterfuge is not for the Chair to determine. If it be a subterfuge, it is quite skillfully constructed, so as to get by the point of order made by the gentleman from Texas. The work of Potomac Park was authorized by law, has been in progress for a number of years, and appropriations are made year after year for the continuation of the work.

The language of the amendment provides only for construction and development work such as has been going on there for years, as we all know. The appropriation is made for development work in Potomac Park which is already authorized. Therefore the Chair is constrained to hold that the amendment is not subject to a point of order and overrules the point of order.

¹ First session Sixty-eighth Congress, Record, p. 7789.

² William J. Graham, of Illinois, Chairman.

³ Hinds' Precedents, section 3794.

⁴ First session Sixty-eighth Congress, Record, p. 10532.