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402 apply only to reported measures.

Following the adoption of a special order which made in order the text of an unreported bill in lieu of the reported version of a bill providing for welfare reform, the Chair entertained a parliamentary inquiry which explored the relationship of the Congressional Budget Act to the bill which would be considered under the provisions of the special order. While the Chair does not normally give anticipatory rulings, he did in this instance clarify the parliamentary situation. The proceedings of Mar. 21, 1995, follow:

PARLIAMENTARY INQUIRY

MR. [JIM] MCDERMOTT [of Washington]: I have a parliamentary inquiry, Mr. Speaker.

THE SPEAKER PRO TEMPORE:[1] The gentleman will state it.

MR. MCDERMOTT: Mr. Speaker, does the rule we have just adopted make in order general debate on H.R. 4 or H.R. 1214?

THE SPEAKER PRO TEMPORE: The rule makes in order debate on H.R. 4.

MR. MCDERMOTT: As I understand it, Mr. Speaker, the committees of jurisdiction reported out three other bills, none of which is before the House today. Am I correct that H.R. 4 has not been reported out by any committee of jurisdiction?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

MR. MCDERMOTT: Mr. Speaker, continuing that inquiry, is it true that the Budget Act points of order which are designed to assure that the budget rules we established for ourselves are adhered to apply only to measures that have been reported by the committee of jurisdiction?

THE SPEAKER PRO TEMPORE: The Chair observes that sections 302, 303, 311, 401, and 402 of the Congressional Budget Act of 1974 all establish points of order against the consideration of bills or joint resolutions as reported. That is, in each case the point of order against consideration operates with respect to the bill or joint resolution in its reported state. Thus, in the case of an unreported bill or joint resolution, such a point of order against consideration is inoperative.

§ 11. As Related to Other Business

Certain points of order may interrupt business or debate.[2] A timely point of order may be made while another Member has the floor, and his consent is not required.[3] A point of order may even interrupt a Member stating a question of privilege.[4] A timely

20. 141 CONG. REC. p. ____ 311122 881663 5211 325530 312 866 7116 2660

1. John T. Doolittle (Calif.).

2. The special case of the point of order that a quorum is not present is discussed in detail in Ch. 20, Calls of the House; Quorums.

3. See § 11.1, infra.

4. See § 11.2, infra.

point of order takes precedence of a parliamentary inquiry.[5] There are motions which supersede a point of order, however. One such motion is a motion that the Committee of the Whole rise[6] or that the House adjourn. It may be entertained by the Chair pending a decision on a point of order.[7] The Chairman of the Committee of the Whole may entertain a unanimous-consent request to withdraw or modify an amendment even though a point of order is pending against it.[8]

Interrupting Members in Debate

§ 11.1 Points of order may be made while a Member has the floor, and the consent of such Member is not required.

On Mar. 13, 1942,[9] a Member was permitted to interrupt another to make a point of order.

> [Mr. May, of Kentucky, was proceeding to debate a motion that the Committee rise and report the bill under consideration back to the House with the recommendation that the enacting clause be stricken out.]
>
> MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, a point of order.
>
> THE CHAIRMAN:[10] The gentleman from Missouri will state the point of order.
>
> MR. [ANDREW J.] MAY [of Kentucky]: Mr. Chairman, I have not yielded for a point of order.
>
> MR. CANNON of Missouri: Mr. Chairman, I make the point of order that under the unanimous-consent agreement all time for debate has expired and the gentleman cannot be recognized on a motion to strike out the enacting clause offered to secure time for debate, and not offered merely to secure time for debate.
>
> THE CHAIRMAN: Does the gentleman from Kentucky desire to be heard on the point of order?
>
> MR. MAY: Yes, Mr. Chairman.
>
> THE CHAIRMAN: The Chair will hear the gentleman briefly.
>
> MR. MAY: In the first place, Mr. Chairman, I did not yield to the gentleman from Missouri for the purpose of his making a point of order.
>
> THE CHAIRMAN: The gentleman from Missouri did not have to ask the gentleman from Kentucky to yield in order to submit a point of order.

§ 11.2 A point of order may interrupt a Member stating a question of privilege.

On June 30, 1939,[11] Speaker William B. Bankhead, of Alabama, per-

5. See § 11.4, infra.
6. See § 11.3, infra.
7. See § 11.3, infra.
8. See § 11.5, infra.
9. 88 CONG. REC. 2439, 77th Cong. 2d Sess. Under consideration was H.R. 6709, an agricultural appropriation bill for 1943.
10. Robert Ramspeck (Ga.).
11. 84 CONG. REC. 8468, 8469, 76th Cong. 1st Sess.

mitted several Members to raise points of order while Mr. Clare E. Hoffman, of Michigan, stated a question of personal privilege.

THE SPEAKER: The gentleman from Michigan [Mr. Hoffman] will state his question of personal privilege.

MR. HOFFMAN: Mr. Speaker . . . .

MR. [JACK] NICHOLS [of Oklahoma]: Mr. Speaker, I make the point of order that the gentleman is not stating a question of personal privilege.

THE SPEAKER: The Chair will allow the gentleman some latitude in stating his question, but the gentleman must state a question of privilege.

MR. [JOHN D.] DINGELL [of Michigan]: I insist that the gentleman be allowed only a small amount of latitude.

MR. HOFFMAN: Mr. Speaker, I did not hear the remarks made by the gentleman from Michigan [Mr. Dingell].

THE SPEAKER: The Chair is interested in hearing the gentleman state his question of personal privilege.

MR. HOFFMAN: Mr. Speaker, I am interested in the right of free speech, and when the gentleman interrupts to make a remark I am entitled to hear it. . . .

MR. NICHOLS: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. NICHOLS: I make the point of order, Mr. Speaker, that the gentleman is not stating a question of personal privilege.

MR. HOFFMAN: I do not yield for that, Mr. Speaker.

MR. NICHOLS: In order to state a question of privilege the gentleman must state something that somebody said about him. The gentleman is quoting statements he himself made.

MR. HOFFMAN: Mr. Speaker, have I the floor or not?

THE SPEAKER: The gentleman has the floor, but unless the gentleman proceeds to state his point of privilege he will not occupy the floor very much longer.

MR. HOFFMAN: Mr. Speaker, I am endeavoring to state the point as concisely as I may, and I trust that the Speaker will bear with me in my ignorance and my inexperience and let me state it. . . .

Mr. Speaker, may I be free from such interruptions as occurred then when a Member of the House [Mr. Hook] said, "I agree"? Otherwise, I will have to demand that the words be taken down.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a point of order.

MR. HOFFMAN: I do not yield for a point of order, Mr. Speaker.

THE SPEAKER: The gentleman from Mississippi will state his point of order.

MR. RANKIN: Mr. Speaker, I make the point of order that the statement that the gentleman from Michigan is making does not in any way constitute a question of high constitutional privilege. . . .

MR. HOFFMAN: Mr. Speaker, it is a strange situation when I cannot state a question of personal privilege without interruption.

THE SPEAKER: The gentleman from Mississippi had a perfect right to make the point of order. The Chair is entitled to hear the point of order made by the gentleman from Mississippi.

Motions Interrupting Point of Order

§ 11.3 In the Committee of the Whole, a motion that the

Committee rise may be entertained pending a decision of the Chair or further argument on a point of order.

On June 4, 1957,[12] a proponent of a bill, Mr. Harold D. Cooley, of North Carolina, forestalled a ruling by Chairman Brooks Hays, of Arkansas, on a point of order, by moving that the Committee of the Whole rise.[13]

MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, I rise to a point of order against the entire bill, H.R. 6974, on the ground that it is a bill from a committee not having authority to report an appropriation. . . .

MR. COOLEY: . . . I am a little bit apprehensive that the point of order may be sustained, if the Chair is called upon to rule on it. But, I think it would be very unfortunate for us to delay final action on the bill, and in the circumstances we have no other alternative other than to move that the Committee do now rise, and so, Mr. Chairman, I make that motion.

THE CHAIRMAN: The Chair is prepared to rule on the point of order, but the motion offered by the gentleman from North Carolina that the Committee do now rise is in order, and the Chair will put the question.

12. 103 CONG. REC. 8318, 8319, 85th Cong. 1st Sess. Under consideration was H.R. 6974, to extend the Agricultural Trade Development and Assistance Act of 1954.

13. *Parliamentarian's Note:* In this case the language of the bill was in violation of the provisions of Rule XXI clause 4, and the Member in charge of the bill moved that the Committee rise so application could be made to the Committee on Rules for a resolution waiving points of order against the bill. See H. Res. 274, 85th Cong. 1st Sess. (1957).

Precedence of Point of Order Over Parliamentary Inquiry

§ 11.4 A timely point of order takes precedence over a parliamentary inquiry, and the reservation of a parliamentary inquiry gives no priority for that purpose, since recognition is in the discretion of the Chair.

On June 7, 1977,[14] the Committee of the Whole, chaired by Mr. James R. Mann, of South Carolina, was operating under the five-minute rule. The following proceedings are related to the topic of this section:

MR. [THOMAS N.] KINDNESS [of Ohio]: Mr. Chairman, I offer amendments, and I wish to make a parliamentary inquiry with respect thereto.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. KINDNESS: Mr. Chairman, may I reserve my parliamentary inquiry and make it after the reading of the amendments?

THE CHAIRMAN: Certainly, the gentleman may do that.

14. 123 CONG. REC. 17713, 17714, 95th Cong. 1st Sess.

The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. Kindness: Page 28, line 12, strike out "but does not include a member of the uniformed services" and insert "including any member of the uniformed services".

Page 30, line 12, strike out "and".

Page 32, line 3, strike out the period and insert "; and".

Page 32, after line 3, insert:

"(10) 'Secretary concerned' has the same meaning as given such term in section 101(5) of title 37.

Page 35, line 2, strike out "or a member of a uniformed service.".

Page 38, line 14, immediately before the period insert "or by reason of being a member of the uniformed services".

Page 45, before line 8, insert the following:

"(j) The preceding provisions of this section shall not apply in the case of a violation by a member of a uniformed service. Procedures with respect to any such violation shall, under regulations prescribed by the Secretary concerned, be the same as those applicable with respect to violations of section 892 of title 10.". . .

MR. [WILLIAM] CLAY [of Missouri]: Mr. Chairman, I make a point of order against the amendment.

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

MR. CLAY: Mr. Chairman, I raise the point of order on the grounds that the matter contained in the amendment is in violation of the germaneness rule stated in clause 7 of House rule XVI.

The instant amendment proposes to make the bill applicable to an entirely new class of individuals other than what is covered under the bill.

The reported bill applies only to civilian employees in executive branch agencies, including the Postal Service and the District of Columbia government, who are presently under the Hatch Act.

The amendment seeks to add a totally different class of individuals to the bill; namely, military personnel who are not now covered by the Hatch Act. Accordingly the amendment is not germane to the bill.

Mr. Chairman, I insist on my point of order.

THE CHAIRMAN: Does the gentleman from Ohio (Mr. Kindness) wish to speak to the point of order?

MR. KINDNESS: I do, Mr. Chairman.

Mr. Chairman, I understood that I was recognized prior to the reading of the amendment for the purpose of stating a parliamentary inquiry.

THE CHAIRMAN: The Chair will state that the gentleman chose to defer his inquiry.

MR. KINDNESS: Mr. Chairman, I suggest that the gentleman's point of order is out of order.

THE CHAIRMAN: The Chair will state that a point of order is now in order and has preference.

§ 11.5 Although a point of order is pending against a substitute for an amendment, the Chairman of the Committee of the Whole may entertain a unanimous-consent request to withdraw or modify the substitute.

On June 18, 1958,[15] it was ruled in order in the Committee of

15. 104 CONG. REC. 11641–43, 85th Cong. 2d Sess. Under consideration

the Whole to make a unanimous-consent request although a point of order was pending at the time.

MR. [CLARENCE] CANNON [of Missouri]: Mr. Chairman, I offer an amendment.

The Clerk read as follows: . . .

MR. [ROBERT] HALE [of Maine]: Mr. Chairman, I offer a substitute amendment.

THE CHAIRMAN:[16] The Clerk will read the amendment.

The Clerk read as follows: . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the amendment because it provides for items that are not authorized by law. . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, can a unanimous-consent request be propounded while a point of order is pending before the committee?

THE CHAIRMAN: The Chair would entertain such a unanimous-consent request. Any Member can object if he so desires. Does the gentleman from Maine care to make such a request?

MR. HALE: Mr. Chairman, I want to be heard on the point of order.

THE CHAIRMAN: The gentleman can be heard and he is recognized. The Chair is interested in disposing of the point he raised a moment ago.

MR. HALE: I will be happy to have any solution of the parliamentary situation.

THE CHAIRMAN: The gentleman can ask unanimous consent to withdraw the substitute and offer an amendment.

§ 12. Relationship of Quorum Requirements to Points of Order

Since 1974, the House has altered the rules regarding enforcement of the constitutional requirement that a quorum—a majority of the House-must be present to do business.[17] The first, and most notable, change is that a quorum is not required for mere debate; and the Chair is not permitted to recognize for a point of no quorum unless the pending question has been put.[18] Both the Speaker and the Chairman of a Committee of the Whole have a limited discretion, under the new procedures, to entertain a proper motion to obtain a quorum by recognizing for a motion for a call of the House or, in Committee, to recognize for a point of no quorum and invoke a call of the Committee.[19] Once a quorum of the Committee has been established on a day, the Chair is restricted in

was H.R. 12858, making appropriations for civil functions administered by the Departments of the Army, Interior, etc.

16. Hale Boggs (La.).

17. See U.S. Const. art. I, § 5, *House Rules and Manual* § 52; see also, Rule XV cl. 6, § 774c (1997).

18. See Ch. 20, supra; see also § 12.16, infra.

19. See Rule XXIII cl. 2(a), *House Rules and Manual* § 863 (1997).