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MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. EBERHARTER: Mr. Chairman, the House decided by a teller vote to permit the reading of this letter. I submit that the letter should be read in its entirety; that is the point of order I make.

THE CHAIRMAN: That is not the decision made by the Committee. The Committee made the decision that the gentleman could read the letter within the time allotted to the gentleman of 5 minutes.

MR. EBERHARTER: I did not hear it so stated when the motion was put, Mr. Chairman.

THE CHAIRMAN: The question put to the Committee had nothing whatsoever to do with the time to be consumed by the gentleman from California. The Chair recognized the gentleman from California for 5 minutes; the question arose as to whether or not he could within that 5 minutes time read extraneous papers.

The point of order is overruled.-

E. POINTS OF ORDER

§ 19. Generally

Questions of order relating to procedure (as distinguished from cases of disorder or contempt) arising in the Committee of the Whole are decided by the Chairman, not the Speaker.[18] However, on an occasion when the Chairman of the Committee of the Whole had taken an active part in the discussion of a point of order, the question was by unanimous consent passed over to be later raised in the House.[19]

Scope of Ruling

§ 19.1 The Chair does not rule on points not presented in a point of order.

On June 27, 1949,[20] during consideration of H.R. 4009, the Housing Act of 1949, and after overruling a point of order that particular provisions exceeded the jurisdiction of the Committee on Banking and Currency because they constituted appropriations,

18. 5 Hinds' Precedents §§ 6927, 6928.

See § 6, supra, for precedents relating to rulings of the Chairman generally. See Ch. 31, infra, for precedents relating to points of order generally. See 4 Hinds' Precedents §§ 4783, 4784, 5 Hinds' Precedents §§ 6921–6937, 6987, and 8 Cannon's Precedents § 3450, for pre-1936 precedents.

19. 7 Cannon's Precedents § 1527.

20. 95 CONG. REC. 8536–38, 81st Cong. 1st Sess.

Chairman Hale Boggs, of Louisiana, declined to rule on an issue which had not been presented in a point of order.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, the point of order I make is that subparagraphs (e) and (f) of section 102 in title I constitute the appropriation of funds from the Federal Treasury, and that the Committee on Banking and Currency is without jurisdiction to report a bill carrying appropriations under clause 4, rule 21, which says that no bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations.

This is no casual point of order made as a tactical maneuver in consideration of the bill. I make this point of order because this proposes to expand and develop a device or mechanism for getting funds out of the Federal Treasury in an unprecedented degree

The Constitution has said that no money shall be drawn from the Treasury but in consequence of appropriations made by law. It must follow that the mechanism which gets the money out of the Treasury is an appropriation.

I invite the attention of the Chairman to the fact that subparagraph (e) states:

> To obtain funds for loans under this title, the Administrator may issue and have outstanding at any one time notes and obligations for purchase by the Secretary of the Treasury in an amount not to exceed $25,000,000, which limit on such outstanding amount shall be increased by $225,000,000 on July l, 1950, and by further amounts of $250,000,000 on July 1 in each of the years 1951, 1952, and 1953, respectively—

Within the total authorization of $1,000,000,000.

Further that subparagraph (f) provides that—

> The Secretary of the Treasury is authorized and directed—

And I call particular attention to the use of the words "and directed"—

> to purchase any notes and other obligations of the Administrator issued under this title and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended—

And so forth. The way in which this particular language extends this device of giving the Secretary authority to subscribe for notes by some authority is this: It includes the words "and directed."

In other words, the Secretary of the Treasury has no alternative when the Administrator presents to him some of these securities for purchase but to purchase them. The Secretary of the Treasury is not limited to purchasing them by proceeds from the sale of bonds or securities. He is directed to purchase these notes and obligations issued by the Administrator. That means he might use funds obtained from taxes, that he might use funds obtained through the assignment of miscellaneous receipts to the Treasury, that he might use funds obtained through the proceeds of bonds.

This proposal will give to the Committee on Banking and Currency, if it

should be permitted, authority which the Committee on Appropriations does not have, for in the reporting of an appropriation bill for a fiscal year, any appropriation beyond the fiscal year would be held out of order. Here this committee is reporting a bill which proposes to make mandatory extractions from the Treasury during a period of 4 years. . . .

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, I agree with my friend who has raised the point of order that this is not a casual one, but, on the contrary, is a very sincere one. It presents a new question from a legislative angle to be passed upon in the direct question raised by the point of order. . . .

The provision in paragraph (f) that my friend has raised a point of order against relates entirely to loans. As we read section 102 of title I it starts out with loans. Throughout the bill, a number of times, there is reference to loans.

Paragraph (e) says:

> To obtain funds for loans under this title.

It is a loan.

The meat of the two paragraphs, as I see it, is this:

Paragraph (f), line 23, page 8, says:

> The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Administrator issued under this title and for such purpose is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such act, as amended, are extended to include any purchases of such notes and other obligations.

It seems to me that that is the meat. Certainly, the language there does not amount to an appropriation. It is entirely for loan purposes. . . .

I respectfully submit that it must call for an appropriation out of the general funds of the Treasury in order to violate the rules of the House. This permits the use of money raised by the sale of bonds under the Second Liberty Bond Act for loans to these public agencies, such loans to be repaid with interest.

I respectfully submit, complimenting my friend for having raised the point of order—and certainly, it is not a dilatory one, nor a casual one, one that demands respect—that the point of order does not lie against the language contained in the pending bill. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair agrees with the gentleman from South Dakota that the point which has been raised is not a casual point of order. As a matter of fact, as far as the Chair has been able to ascertain, this is the first time a point of order has been raised on this issue as violative of clause 4 of rule XXI.

As the Chair sees the point of order, the issue involved turns on the meaning of the word "appropriation." "Appropriation," in its usual and customary interpretation, means taking money out of the Treasury by appropriate legislative language for the support of the general functions of Government. The language before us does not do that. This language authorizes the Secretary of the Treasury to use pro-

ceeds of public-debt issues for the purpose of making loans. Under the language, the Treasury of the United States makes advances which will be repaid in full with interest over a period of years without cost to the taxpayers.

Therefore, the Chair rules that this language does not constitute an appropriation, and overrules the point of order.

MR. CASE of South Dakota: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. CASE of South Dakota: Would the Chair hold then that that language restricts the Secretary of the Treasury to using the proceeds of the securities issued under the second Liberty Bond Act and prevents him from using the proceeds from miscellaneous receipts or tax revenues?

THE CHAIRMAN: The Chair does not have authority to draw that distinction. The Chair is passing on the particular point which has been raised.

MR. CASE of South Dakota: However, Mr. Chairman, it would seem implicit in the ruling of the Chair and I thought perhaps it could be decided as a part of the parliamentary history. It might help some courts later on.

THE CHAIRMAN: The Chair can make a distinction between the general funds of the Treasury and money raised for a specific purpose by the issuance of securities. That is the point involved here.

Scope of Debate

§ 19.2 Debate on a point of order raised in the Committee of the Whole is within the discretion of the Chairman and must be confined to the point of order.

On Apr. 13, 1951,[1] during consideration of S. 1, 1951 Amendments to the Universal Military Training and Service Act, Chairman Jere Cooper, of Tennessee, stated that debate on a point of order is controlled by the Chair and must be confined to the point of order.

MR. [ANTONI N.] SADLAK [of Connecticut]: Mr. Chairman, I offer an amendment.

THE CHAIRMAN: The Clerk will report the amendment, but the Chair will state that all time for debate has been exhausted.

The Clerk read as follows:

> Amendment offered by Mr. Sadlak: Page 26, following the amendment offered by Mr. Walter, insert the following: "Any citizen of a foreign country. . . ."

MR. [CARL] VINSON [of Georgia]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the pending bill.

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

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

THE CHAIRMAN: The gentleman will state it.

MR. SADLAK: Mr. Chairman, how much time will be allotted to me for that purpose?

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1. 97 CONG. REC. 3909, 3910, 82d Cong. 1st Sess.

THE CHAIRMAN: That is in the discretion of the Chair. The gentleman's argument must be confined to the point of order.

Violation of Ramseyer Rule

§ 19.3 A point of order that a committee report fails to comply with Rule XIII clause 3,[2] the Ramseyer rule, will not lie in the Committee of the Whole.

On July 5, 1966,[3] during consideration of H.R. 14765, the Civil Rights Act of 1966, Chairman Richard Bolling, of Missouri, ruled whether a point of order that a committee report that failed to comply with Rule XIII clause 3, the Ramseyer rule, would lie in the Committee of the Whole.

MR. [EMANUEL] CELLER [of New York]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14765) to assure nondiscrimination in Federal and State jury selection and service . . . and for other purposes.

MR. [JOHN BELL] WILLIANS [of Mississippi]: Mr. Speaker, a point of order.

THE SPEAKER:[4] The question is on the motion offered by the gentleman from New York [Mr. Celler].

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

THE SPEAKER: All those in favor of the motion will let it be known by saying "aye." All those opposed by saying "no."

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 14765. with Mr. Bolling in the chair.

MR. WILLIAMS: Mr. Chairman, a point of order. Mr. Chairman, I have a point of order. I was on my feet——

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

MR. [JOE D.] WAGGONER [Jr., of Louisiana]: Mr. Chairman.

THE CHAIRMAN: Under the rule, the gentleman from New York [Mr. Celler] will be recognized for 5 hours. . . .

MR. WILLIAMS: Mr. Chairman.

MR. CELLER: Mr. Chairman, I yield myself such time as I may care to use.

Mr. Chairman, Negroes propose to be free. Many rights have been denied and withheld from them. The right to be equally educated with whites. The right to equal housing with whites.

The right to equal recreation with whites.

MR. WILLIAMS: Mr. Chairman, a point of order.

MR. CELLER: Regular order, Mr. Chairman.

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

MR. WILLIAMS: Mr. Chairman, immediately before the House resolved itself into the Committee of the Whole House I was on my feet on the floor

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2. House Rules and Manual § 745 (1979).

3. 112 CONG. REC. 16840, 89th Cong, 2d Sess.

4. John W. McCormack (Mass.).

seeking recognition for the purpose of making a point of order against consideration of H.R. 14765 on the ground that the report of the Judiciary Committee accompanying the bill does not comply with all the requirements of clause 3 of rule XIII of the rules of the House known as the Ramseyer rule and intended to request I be heard in support of that point of order. I was not recognized by the Chair. I realize technically under the rules of the House at this point, my point of order mav come too late, after the House resolved itself into the Committee of the Whole House on the State of the Union.

MR. CELLER: Mr. Chairman.

MR. WILLIAMS: But I may say, Mr. Chairman, that I sought to raise the point of order before the House went into session. May I ask this question? Is there any way that this point of order can lie at this time?

THE CHAIRMAN: Not at this time. It lies only in the House, the Chair must inform the gentleman from Mississippi.

MR. WILLIAMS: May I say that the Parliamentarian and the Speaker were notified in advance and given copies of the point of order that I desired to raise, and I was refused recognition although I was on my feet seeking recognition at the time.

MR. [JOHN J.] FLYNT [of Georgia]: Mr. Chairman, I appeal the ru]ing of the Chair.

THE CHAIRMAN: The Chair will have to repeat that the gentleman from Mississippi is well aware that this present occupant of the chair is powerless to do other than he has stated.

MR. WAGGONNER: Mr. Chairman, I appeal the ruling of the Chair.

THE CHAIRMAN: The question is, Shall the decision of the Chair stand as rendered?

The question was taken; and on a division (demanded by Mr. Williams) there were—ayes 139, noes 101.

The decision of the Chair was sustained.

§ 19.4 After brief debate on whether a point of order that a committee report violated the Ramseyer rule could be entertained in the Committee of the Whole, the Committee on motion rose; the Speaker announced that because of confusion in the Chamber he had not heard the Member seeking recognition on the point of order and, since the Member stated that he had been seeking recognition, agreed to hear his point of order.

On July 5, 1966,[5] after the Chairman of the Committee of the Whole refused to entertain a point of order that a committee report violated the Ramseyer Rule[6] and the Committee on appeal sustained that ruling, the Committee on motion rose. Speaker John W. McCormack, of Massachusetts, agreed to hear this point of order

5. 112 CONG. REC. 16840, 16842, 89th Cong. 2d Sess.

6. *House Rules and Manual* § 745 (1979).

because he had not heard the Member, John Bell Williams, of Mississippi, seek recognition before the House resolved itself into the Committee of the Whole.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Bolling, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 14765) to assure nondiscrimination in Federal and State jury selection and service, to facilitate the desegregation of public education and other public facilities, to provide judicial relief against discriminatory housing practices, to prescribe penalties for certain acts of violence or intimidation, and for other purposes, had come to no resolution thereon.

THE SPEAKER: The Chair recognizes the gentleman from Mississippi.

MR. WILLIAMS: Mr. Speaker, the House resolved itself into the committee of the Whole House on the State of the Union a moment ago. When the question was put by the Chair, I was on my feet seeking recognition for the purpose of offering a point of order against consideration of the legislation. Although I shouted rather loudly, apparently the Chair did not hear me. Since the Committee proceeded to go into the Committee of the Whole, I would like to know, Mr. Speaker, if the point of order which I had intended to offer can be offered now in the House against the consideration of the bill; and, Mr. Speaker, I make such a point of order and ask that I be heard on the point of order.

THE SPEAKER: The Chair will state that the Chair did not hear the gentleman make his point of order. There was too much noise. Under the circumstances the Chair will entertain the point of order.

Rising of Committee Pending Decision

§ 19.5 A point of order having been raised in the Committee of the Whole against a bill reported by a nonappropriating committee, on grounds that it proposed an appropriation contrary to Rule XXI clause 5,[7] the Committee rose pending decision by the Chair on the point of order.

On June 4, 1957,[8] during consideration of H.R. 6974, extending the Agricultural Trade Development and Assistance Act of 1954, the Committee of the Whole rose pending a decision by the Chairman on a point of order.

The Clerk read as follows:

Be it enacted, etc., That the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended as follows: . . .

MR. [JOHN J.] RODNEY [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. . . .

7. *House Rules and Manual* § 846 (1979).

8. 103 CONG. REC. 8298, 8318, 8319, 85th Cong. 1st Sess.

MR. [HAROLD D.] COOLEY [of North Carolina]: . . . 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:[9] 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.

The question is on the motion offered by the gentleman from North Carolina.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Hays of Arkansas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6974) to extend the Agricultural Trade Development and Assistance Act of 1954, and for other purposes, had come to no resolution thereon.

Disposing of Points of Order Before Consideration of Bill for Amendment

§ 19.6 The Committee of the Whole agreed by unanimous consent to dispense with the reading of an appropriation bill for amendment and that points of order and then amendments could be submitted immediately after the first reading of the bill had been dispensed with.

On July 5, 1945,[10] the Committee of the Whole agreed to dispense with the reading of an appropriation bill, that the bill be considered as read, and that points of order and amendments be in order thereafter.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3649) with Mr. Sparkman in the chair.

The Clerk read the title of the bill.

On motion of Mr. Cannon of Missouri the first reading of the bill was dispensed with.

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, I ask unanimous consent that the bill be considered as read and that all Members desiring to submit amendments or points of order have leave to submit them at this time

THE CHAIRMAN:[11] Is there objection to the request of the gentleman from Missouri?

There was no objection.

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, in view of the unanimous consent request that has just been granted, I make the point of order against the first item, National War Labor Board, on the ground that it is an appropriation not authorized by law.

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9. Brooks Hays (Ark.).

10. 91 CONG. REC. 7226, 7227, 79th Cong. 1st Sess.

11. John J. Sparkman (Ala.).

MR. CANNON of Missouri: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The point of order is sustained.

MR. MARCANTONIO: Mr. Chairman, I make a point of order on the same grounds against the item for the Office of Defense Transportation on page 5.

MR. CANNON of Missouri: The point of order is conceded, Mr. Chairman.

THE CHAIRMAN: The gentleman from New York [Mr. Marcantonio] makes a point of order which the gentleman from Missouri [Mr. Cannon] concedes. The Chair sustains the point of order.

§ 19.7 Where unanimous consent is granted that the remainder of an appropriation bill be considered as read and that all portions thereof be subject to amendments and to points of order, the Chair suggests that points of order be disposed of first since it will be too late to make such points after amendments to the bill have been considered.

On Apr. 25, 1947,(12) during consideration of H.R. 3123, the Department of the Interior appropriations bill, 1948, Chairman Earl C. Michener, of Michigan, suggested a time for the raising of points of order against amendments to the bill.

MR. [ROBERT F.] JONES of Ohio: Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read and that all portions thereof be subject to amendment and to points of order.

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

There was no objection.

THE CHAIRMAN: The Chair suggests that the points of order be disposed of first under this procedure, before the amendments.

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

My point of order, Mr. Chairman, is that that is legislation amending a previous act and not within the purview of this bill making appropriations for fiscal 1948. It constitutes legislation on an appropriation bill for it destroys existing legislation.

THE CHAIRMAN: This language changes a contract authorization contained in a previous appropriation bill passed by another Congress. The Chair sustains the point of order.

Are there any further points of order to be made to the bill? If so, they will be taken up first since it will be too late to make points of order after amendments to the bill have been considered.

§ 20. Timeliness

Points of order on general appropriation bills are usually reserved in the House at the time of reference to the Committee of the Whole (to the Union Calendar) to permit the Committee to strike

12. 93 CONG. REC. 4098, 80th Cong. 1st Sess.