

authorize the transfer of previously appropriated amounts not in this bill.

Therefore, it exceeds the authority of the committee to in fact consider it. . . .

MR. [GEORGE E.] SHIPLEY [of Illinois] . . . The committee will concede the point of order.

THE CHAIRMAN:⁽⁷⁾ The gentleman from Illinois [Mr. Shipley] concedes the point of order. Therefore, the Chair sustains the point of order raised by the gentleman from Maryland [Mr. Bauman] and the language is stricken from the bill.

§ 30. Transfer of Funds Not Limited to Same Bill

Section 139(c) of the Legislative Reorganization Act of 1946, later incorporated into the standing rules as clause 5 (now clause 6) of Rule XXI in 1953, sought to prohibit inclusion in general appropriation bills of reappropriations, which were understood to be legislative methods (1) for making an appropriation available after the period in which it may be obligated has expired, or (2) for transferring to a given appropriation an amount not needed in another appropriation. See Chapter 25, §3, *supra*, for further discussion of decisions involving reappropriations of unexpended balances on general appropriation bills. In

7. Walter Flowers (Ala.).

that section, the emphasis is on the prohibition against reappropriations, while in the precedents cited in this section, the Chair's rulings focus on the proposed language as changing existing law. This section includes rulings wherein the Chair has relied upon both clauses 2 and 6 of Rule XXI to rule out provisions which sought to authorize the transfer of previously appropriated funds into new accounts (see §§ 30.17, 30.19, and 30.20, *infra*).

Prior to enactment of the Legislative Reorganization Act of 1946, provisions which reappropriated in a direct manner unexpended balances and continued their availability for the same purpose for an extended period of time were not prohibited by Rule XXI because they were not deemed to change existing law by conferring new authority (see, e.g., 4 Hinds' Precedents §3592; 7 Cannon's Precedents §1152; Ch. 25, §3.14, *supra*). Indeed, some precedents indicated that provisions in or amendments to general appropriation bills were in order which not only constituted reappropriations of unexpended balances, but which conferred new authority on federal officials to expend such balances for purposes different from those for which originally appropriated. (See, e.g., 4 Hinds'

Precedents § 3591; 7 Cannon's Precedents § 1153–1156, 1158.) Other precedents, however, indicated that propositions to make an appropriation payable from funds already appropriated for a different purpose were considered legislation (see, e.g., 7 Cannon's Precedents § 1466). On Dec. 14, 1921, Speaker Frederick H. Gillett, of Massachusetts, stated that "there are several decisions in print which are contradictory. There are decisions both ways." (7 Cannon's Precedents § 1158).

In light of the more recent precedents contained in this section, it is apparent that provisions on a general appropriation bill are in violation of Rule XXI clause 2 if they confer new authority to expend previously appropriated funds for a new purpose, or to expend funds for unauthorized projects, by mandating or permitting transfers between accounts.

Transfer From Previous Appropriations

§ 30.1 An amendment to an appropriation bill proposing the transfer of funds previously appropriated in another appropriation bill is legislation. [An amendment proposing transfer of funds appropriated under one

heading in the Supplemental Appropriation Act, 1959 (Pub. L. No. 85–766) for use under another heading in the District of Columbia Appropriation Act, 1959 (Pub. L. No. 85–594), was held to be legislation.]

On Mar. 24, 1959,⁽⁸⁾ during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 5916), a point of order was raised against the following amendment:

MR. [CARL T.] DURHAM [of North Carolina]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Durham: After line 24, page 13, add the following:

"OFFICE OF CIVIL DEFENSE AND
MOBILIZATION

"Federal contributions: For an additional amount for 'Federal contributions' to the States pursuant to section 205 of the Federal Civil Defense Act of 1950, as amended, to be equally matched with State funds, \$3 million to be derived by transfer from the appropriation for 'emergency supplies and equipment,' fiscal year 1959."

THE CHAIRMAN:⁽⁹⁾ The gentleman from North Carolina is recognized.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the amendment.

8. 105 CONG. REC. 5102, 86th Cong. 1st Sess.

9. Hale Boggs (La.).

THE CHAIRMAN: The gentleman will state it.

MR. TABER: Mr. Chairman, I make the point of order that the amendment is legislation on an appropriation bill.

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

MR. DURHAM: Mr. Chairman, this is a transfer of funds, a matter that I understand appears all through the bill, and I was so advised by the clerk of the committee.

THE CHAIRMAN: This is a little more than that; it affects the transfer of funds for the fiscal year 1959 for this new purpose, and as such would constitute legislation.

MR. DURHAM: If that is the Chair's interpretation, I concede the point of order.

THE CHAIRMAN: The point of order is sustained.

§ 30.2 In an appropriation bill a provision transferring funds previously appropriated under another subhead in a prior enactment was held to be legislation.

On Mar. 18, 1955,⁽¹⁰⁾ during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 4903), a point of order was raised against the following provision:

The Clerk read as follows:

10. 101 CONG. REC. 3197, 3198, 84th Cong. 1st Sess.

Contributions to the United Nations expanded program of technical assistance

For an additional amount for "Contributions to the United Nations expanded program of technical assistance," for United States contributions during the period ending June 30, 1955, \$4 million, to be derived by transfer from the appropriation contained in Public Law 778, 83d Congress, for assistance authorized by section 121 of Public Law 665, 83d Congress. . . .

See §29.6, supra, where transfers between accounts in the pending bill, rather than from an account in a prior act were held in order, citing 7 Cannon's Precedents §1468.

THE CHAIRMAN:⁽¹¹⁾ What is the gentleman's point of order?

MR. [CLARE E.] HOFFMAN of Michigan: That it is legislation on an appropriation bill because in line 19 it provides that the "\$4 million, to be derived by transfer from the appropriation contained in Public Law 778, 83d Congress, for assistance authorized by section 121 of Public Law 665, 83d Congress." That section which I have before me expressly provides that the money is given to the President for his own purposes. Down in the next section a limitation is put on the fund. The President's control over it is limited to certain specific purposes. . . .

MR. [PRINCE H.] PRESTON [of Georgia]: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The point of order is sustained.

Transfer From Fund Created From Bond Proceeds

§ 30.3 Language in an appropriation bill providing addi-

11. Clark W. Thompson (Tex.).

tional funds for rural electrification to be made available from the loan authority for 1956 for rural housing (not an appropriated account), was held to be legislation and not in order.

On Apr. 15, 1957,⁽¹²⁾ during consideration in the Committee of the Whole of a deficiency appropriation bill (H.R. 6870), a point of order was raised against the following provision:

The Clerk read as follows:

RURAL ELECTRIFICATION
ADMINISTRATION

Loan authorizations

For an additional amount for loans for the rural-electrification program, \$200 million, to be borrowed from the Secretary of the Treasury in accordance with section 3(a) of the Rural Electrification Act of 1936, as amended, and to be made available from the loan authorization contained in section 606(a) of the act of August 7, 1956 (Public Law 1020).

Mr. [ROBERT E.] JONES [Jr.] of Alabama: Mr. Chairman, a point of order.

THE CHAIRMAN:⁽¹³⁾ The gentleman will state it.

MR. JONES of Alabama: Mr. Chairman, I make a point of order against the language commencing on page 2, line 23, after the word, "as amended" and reading: "And to be made available from the loan authorization con-

tained in section 606(a) of the act of August 7, 1956 (Public Law 1020)."

Mr. Chairman, the public law referred to has nothing whatsoever to do with the authorization of REA, but is a loan authorization for construction of rural housing as provided in the Rural Housing Act of 1949, as amended by the act of 1956, which gives authorization to the Secretary of Agriculture to issue such debentures as necessary to carry out the authority contained in section 11 of the act of 1949.

I submit that this is legislation on an appropriation bill and is subject to a point of order. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The point of order made by the gentleman from Alabama on line 23, page 2, is against the three lines beginning with the word "and" as being legislation upon an appropriation bill, which it obviously is.

Transfer From Funds Available to Commodity Credit Corporation

§ 30.4 To an appropriation bill an amendment making available to the Secretary of the Army for furnishing a specified milk ration certain available funds of the Commodity Credit Corporation was held to be legislation and therefore not in order.

On Apr. 29, 1954,⁽¹⁴⁾ during consideration in the Committee of the

12. 103 CONG. REC. 5684-86, 85th Cong. 1st Sess.

13. Howard W. Smith (Va.).

14. 100 CONG. REC. 5749, 4750, 83d Cong. 2d Sess.

Whole of the Defense Department appropriation bill (H.R. 8873), a point of order was raised against the following amendment:

MR. [FRANKLIN D.] ROOSEVELT [Jr., of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Roosevelt: At line 12, page 6, after the figure "\$4,150,479,000", insert the following: "plus such other amounts, from the funds available to the Commodity Credit Corporation for price support to producers of milk, butterfat and the products of milk and butterfat, which the Secretary of the Army requires in order to make available to each of the persons herein described, a minimum daily ration of 1 quart of whole fluid milk in addition to such other amounts of milk products to which he is entitled."

MR. [GERALD R.] FORD [of Michigan]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from New York. . . .

Mr. Chairman, I press the point of order, based on the fact that this amendment seeks to change existing law, first; secondly, it seeks to provide funds other than those provided in the act; and, thirdly, I believe it seeks to place additional duties on the Secretary of the Army.

THE CHAIRMAN:⁽¹⁵⁾ Does the gentleman from New York [Mr. Roosevelt] desire to be heard on the point of order?

MR. ROOSEVELT: Yes, Mr. Chairman.

May I say in opposition to my friend on the point of order that this does not change existing law insofar as appro-

priations have been made. As I pointed out, this does not call for any new appropriation. It merely marks the transfer of existing appropriations for dispensation in accordance with the amendment.

THE CHAIRMAN: The Chair is ready to rule.

The Chair is of the opinion that the amendment is legislation on an appropriation bill, and that the point of order is well taken. The Chair sustains the point of order.

Transfer to Previous Appropriation.

§ 30.5 To an appropriation bill an amendment adding an appropriation and providing for transferring funds therefrom to an appropriation made by a prior enactment but without regard to the limitations applicable to the previously appropriated funds was held to be legislation and not in order.

On July 20, 1954,⁽¹⁶⁾ during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 9936), a point of order was raised against the following amendment:

Amendment offered by Mr. [Richard B.] Wigglesworth [of Massachusetts]: Page 6, line 11, after the words "ship construction" strike out all of lines 11,

15. William M. McCulloch (Ohio).

16. 100 CONG. REC. 11123, 83d Cong. 2d Sess.

12, and 13, and insert in lieu thereof the following:

“For payment of construction-differential subsidy and cost of national defense features incident to construction of four passenger-cargo ships under title V of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1154); for reconditioning and betterment of not to exceed four ships in the national defense reserve fleet; and for necessary expenses for the acquisition of used tankers pursuant to section 510 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1160), and the payment of cost of national defense features incorporated in new tankers constructed to replace such used tankers, \$82,600,000, to remain available until expended: *Provided*, That transfers may be made to the appropriation for the current fiscal year for ‘Salaries and expenses’ for administrative expenses (not to exceed \$500,000) and for reserve fleet expenses (in such amounts as may be required), and any such transfers shall be without regard to the limitations under that appropriation on the amounts available for such expenses: *Provided further*, That appropriations granted herein shall be available to pay construction-differential subsidy granted by the Federal Maritime Board, pursuant to section 501(c) of the Merchant Marine Act, 1936, as amended, to aid in the reconstruction of any Mariner-class ships sold under the provisions of title VII of the 1936 act.”

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order that the amendment contains legislation. The language “and any such transfers shall be without regard to the limitations under that appro-

priation of the amounts available for such expenses” makes it clearly subject to a point of order.

THE CHAIRMAN:⁽¹⁷⁾ Does the gentleman from Massachusetts desire to be heard on the point of order?

MR. WIGGLESWORTH: Mr. Chairman, the language submitted is the language that was received from the Bureau of the Budget. It seemed to me that if this step was to be taken this was the desirable way to do. However, if the gentleman from New York insists, I concede that the language in question is subject to a point of order.

THE CHAIRMAN: The Chair sustains the point of order on the ground that the amendment does contain legislation.

Lifting Appropriation Ceiling; Allowing Transfer to New Project

§ 30.6 A provision in an appropriation bill changing the dollar limitation on a project and transferring previously appropriated funds from one project to another was conceded to be legislation and was ruled out on a point of order.

On Aug. 26, 1960,⁽¹⁸⁾ during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 12740), the

17. Leo E. Allen (Ill.).

18. 106 CONG. REC. 17899, 86th Cong. 2d Sess.

following point of order was raised:

MR. [H.R.] GROSS [of Iowa]: Mr. Chairman, I make a point of order on the language on page 12, beginning on line 11, running through line 19, as being legislation on an appropriation bill, the language being as follows:

CONSTRUCTION AND REHABILITATION

The limitation under this head in the Interior Department Appropriation Act, 1955, on the amount available toward the emergency rehabilitation of the Crescent Lake Dam project, Oregon, is increased from "\$297,000" to \$305,000", and not to exceed \$300,000 of funds available under this head for fiscal year 1961 shall be used for advance planning activities on the Canadian River project, Texas.

THE CHAIRMAN:⁽¹⁹⁾ Does the gentleman from Texas desire to be heard on the point of order?

MR. [ALBERT] THOMAS [of Texas]: Mr. Chairman, the point of order is good, but for the all-powerful reason that it does not appropriate any money, but simply transfers money appropriated several years ago and we concede the point of order.

THE CHAIRMAN: The point of order is sustained.

Change in Purpose of Permanent Appropriation

§ 30.7 Language in an appropriation bill authorizing the Secretary of Agriculture to pay out of funds made avail-

19. Herbert C. Bonner (N.C.).

able by section 32 of the Act of Aug. 24, 1935, transportation and handling charges on surplus commodities owned by the department and its agencies for the purpose of distribution to public welfare agencies was held to be legislation and not in order.

On Apr. 27, 1950,⁽²⁰⁾ during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 7786), a point of order was directed against the following language of the bill:

The Department of Agriculture is authorized to pay out of funds made available by section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c)) transportation and handling charges on surplus commodities owned by the Department or any of its instrumentalities or agencies for the purpose of distribution to public welfare agencies.

MR. [STEPHEN] PACE [of Georgia]: Mr. Chairman, I make the point of order against the language on page 193, lines 18 through 24, that it is legislation on an appropriation bill and therefore is contrary to the rules of the House, in that it seeks to add an additional purpose for which section 32 funds may be expended.

Section 32 of the act of August 24, 1935, is the section which sets aside 30 percent of the gross customs receipts to

20. 96 CONG. REC. 5911-13, 81st Cong. 2d Sess.

be expended for certain purposes; namely, to increase the export and the consumption of agricultural commodities. The purposes for which the funds may be expended are set out. They may be used by paying indemnities to exporters, and by making payments to producers. The further authority proposed to be set forth in this bill is to pay the transportation and handling charges on certain agricultural commodities. . . .

MR. [JAMIE L.] WHITTEN [of Mississippi]: While there is much merit to the intent of our friend, the gentleman from Minnesota, I am rather of the same opinion as my colleague, the gentleman from Georgia, so far as the use of section 32 funds is concerned. Further, it has been my purpose and the purpose of our committee to cooperate with the legislative committee and in no case to usurp or try to usurp their prerogatives. The provision put in here is a stop-gap and it was done only on the basis that the legislative committee was now considering this matter. I think the committee is so considering it. I wonder if it would not be better to let the whole thing go out and let the legislative committee handle it by substantive law. I think that is the way it properly should be handled. I did yield to the desires of our colleagues of the committee to try to meet this situation by putting it in here. But if there is any objection on the part of the legislative committee, certainly it is their business. We are trying to help out rather than try to usurp their prerogatives. That is the position I take.

THE CHAIRMAN:⁽¹⁾ The Chair is prepared to rule on the point of order. . . .

1. Jere Cooper (Tenn.).

The Chair has examined the language referred to and is definitely of the opinion that it does include legislation on an appropriation bill. The Chair is very favorably impressed with the last statement made by the gentleman from Georgia in reply to the observation made by the gentleman from South Dakota to the effect that if existing law provided for this there would be no useful purpose to be served by having this provision in the bill. It does appear very clearly to the Chair that the inclusion of this language would result in a diversion of certain funds from the purpose provided by existing law for the use of those funds. It therefore appearing to the Chair that it is legislation on an appropriation bill, in violation of the rules of the House, the Chair sustains the point of order.

New Purpose For Previously Appropriated Funds

§ 30.8 Language in an appropriation bill providing that funds for two reclamation projects be derived by transfer from appropriations previously made available to the Department of the Interior was held to be legislation and not in order.

On Feb. 26, 1958,⁽²⁾ during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 10881), a point

2. 104 CONG. REC. 2899, 85th Cong. 2d Sess.

of order was raised against the following provision:

The Clerk read as follows:

BUREAU OF RECLAMATION

For an additional amount for the "Upper Colorado River Basin Fund" for the Glen Canyon project, not to exceed \$10 million; and for the Trinity River division of the Central Valley project, not to exceed \$10 million; to be derived by transfer from any definite annual appropriations available to the Department of the Interior for the fiscal year 1958 and from the appropriation "Construction and Rehabilitation": *Provided*, That no part of any funds allocated to these two project activities shall be used for contracts not in effect as of February 20, 1958.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the paragraph beginning on line 20, page 14, and ending on page 15, line 7, on the ground that it changes existing law and is legislation on an appropriation bill.

MR. [CLARENCE] CANNON [of Missouri]: We concede the point of order, Mr. Chairman.

THE CHAIRMAN:⁽³⁾ The Chair sustains the point of order.

§ 30.9 Language in a general appropriation bill authorizing the President to allocate a certain sum from funds made available by the Emergency Relief Appropriations Act of 1937 was held to be legislation and not in order.

3. Francis E. Walter (Pa.).

On Aug. 17, 1937,⁽⁴⁾ during consideration in the Committee of the Whole of the third deficiency appropriation bill (H.R. 8245), the following point of order was raised:

MR. [HARRY L.] ENGLSBRIGHT [of California]: Mr. Chairman, I make the point of order against that portion of the title appearing on page 18, beginning on line 5, and reading as follows:

Yosemite National Park, Calif.: For the acquisition of certain lands, including expenses incidental thereto, as set forth in the act approved July 9, 1937 (Public, No. 195, 75th Cong.), the President is authorized to allocate not to exceed \$2,005,000, from funds made available by section 1 of the Emergency Relief Appropriation Act of 1937, such amount having been heretofore earmarked for such purpose.

That it is legislation on an appropriation bill, that it is directory in character, that it changes existing law, and is unauthorized.

If the Chair will permit, may I call the attention of the Chair to certain authorities?

MR. [CLIFTON A.] WOODRUM [of Virginia]: Mr. Chairman, if the matter is subject to a point of order, there is no use prolonging the agony.

THE CHAIRMAN:⁽⁵⁾ The Chair is ready to rule.

The language in this paragraph seeks to authorize the President to allocate funds not heretofore allocated to this park. This is purely legislation

4. 81 CONG. REC. 9171, 9172, 75th Cong. 1st Sess.

5. Claude V. Parsons (Ill.).

upon an appropriation bill. Therefore, the point of order is sustained with reference to that portion of the title "Department of the Interior" which appears on page 18, lines 5 to 12, inclusive, under the heading, "National Park Service."

Continuation of Previous Appropriations; New Purpose

§ 30.10 Language in a supplemental appropriation bill which is applicable to funds appropriated in another act constitutes legislation and is not in order.

On June 29, 1959, ⁽⁶⁾ during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 7978), a point of order was raised against the following provision:

The Clerk read as follows:

DEPARTMENT OF COMMERCE

Bureau of the Census

SALARIES AND EXPENSES

The appropriation granted under this head for the fiscal year 1960 shall be available to finance, through advances or on a reimbursable basis, the procurement of materials, services, or costs of activities which relate to, or benefit, two or more appropriations to the Bureau of the Census.

MR. [JOSEPH F.] HOLT [of California]: Mr. Chairman, I make the point of

6. 105 CONG. REC. 12132, 12133, 86th Cong. 1st Sess.

order that the following language, on page 7, lines 11 to 15, "The appropriation granted under this head for the fiscal year 1960 shall be available to finance, through advances or on a reimbursable basis, the procurement of materials, services, or costs of activities which relate to, or benefit, two or more appropriations to the Bureau of the Census" constitutes legislation on an appropriation bill and is subject to a point of order.

It refers to funds that are not in this bill but in another; and I noted in the report that the Comptroller General expresses the opinion that specific legislative authorization should be obtained. I maintain that the place to obtain it is not here but in the legislative committee.

THE CHAIRMAN:⁽⁷⁾ does the gentleman from Texas desire to be heard on the point of order?

MR. [ALBERT] THOMAS [of Texas]: I might say that the committee had no deep feeling one way or the other on this provision. It was inserted in the bill because the Bureau of the Budget said the Census Bureau must have this language in order to expend their own funds. We are merely trying to help the agency out. It does not call for 5 cents expenditure; it does not call for either an increase or a decrease in the appropriation. It is merely the way costs are applied within the agency.

THE CHAIRMAN: The Chair is prepared to rule. The point of order is made that the following language, appearing on page 7, lines 11 to 15, "The appropriation granted under this head for the fiscal year 1960 shall be available to finance, through advances or on

7. Paul J. Kilday (Tex.).

a reimbursable basis, the procurement of materials, services, or costs of activities which relate to, or benefit, two or more appropriations to the Bureau of the Census" constitutes legislation on an appropriation bill, and has no reference to the bill before the Committee.

The Chair sustains the point of order.

Appropriation Continued Without Warrant Action

§ 30.11 Language in an appropriation bill for establishment of air-navigation facilities providing that the appropriation for a preceding year "is hereby continued available without warrant action" and merged with this appropriation, was held unauthorized by law.

On Mar. 16, 1945,⁽⁸⁾ during consideration in the Committee of the Whole of a general appropriation bill (H.R. 2603), a point of order was raised against the following provision:

The Clerk read as follows:

Establishment of air-navigation facilities: For the acquisition and establishment by contract or purchase and hire of air-navigation facilities, including the equipment of additional civil airways for day and night flying . . . the alteration and modernization of existing air-navigation

facilities; the acquisition of the necessary sites by lease or grant . . . and hire, maintenance, repair, and operation of passenger-carrying automobiles, \$9,400,000: *Provided*, That the consolidated appropriation under this head for the fiscal year 1945 is hereby continued available without warrant action until June 30, 1946, and is hereby merged with this appropriation, the total amount to be disbursed and accounted for as one fund.

MR. [ROBERT F.] JONES [of Ohio]: Mr. Chairman, a point of order.

THE CHAIRMAN:⁽⁹⁾ The gentleman will state it.

MR. JONES: Mr. Chairman, I make a point of order against the language appearing on page 58, line 16, "without warrant action" on the ground that it is an appropriation not authorized by law.

THE CHAIRMAN: Does the gentleman from Michigan desire to be heard on the point of order.

MR. [LOUIS C.] RABAUT [of Michigan]: I concede the point of order, Mr. Chairman.

THE CHAIRMAN: The point of order is sustained.

§ 30.12 A provision in an appropriation bill for development of landing areas making available funds from a prior appropriation bill "without warrant action" was held unauthorized by law.

On Mar. 16, 1945,⁽¹⁰⁾ during consideration in the Committee of

9. Wilbur D. Mills (Ark.).

10. 91 CONG. REC. 2373, 79th Cong. 1st Sess.

8. 91 CONG. REC. 2370, 79th Cong. 1st Sess.

the Whole of a general appropriation bill (H.R. 2603), a point of order was raised against the following provision:

Development of landing areas: For completion of the program for the construction, improvement, and repair of public airports for national defense the consolidated appropriation under this head in the Department of Commerce Appropriation Act, 1943; shall remain available until June 30, 1946, without warrant action, and the portion thereof available for administrative expenses shall be available also for the operation, maintenance, and repair of passenger-carrying automobiles, and not to exceed \$3,000 for printing and binding. . . .

MR. [ROBERT F.] JONES [of Ohio]: Mr. Chairman, a point of order. I make a point of order against the words on page 61, line 10, "without warrant action", that it is legislation on an appropriation bill.

MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Chairman, I concede the point of order.

THE CHAIRMAN:⁽¹¹⁾ The Chair sustains the point of order.

Making Available Other Funds by Reference to the Budget Estimates Submitted by the President

§ 30.13 Language in an appropriation bill appropriating for the Office of the Solicitor, Department of Agriculture, a

11. Wilbur D. Mills (Ark.).

specific amount "together with such amounts from other appropriations or authorizations as are provided in the . . . Budget . . . which several amounts . . . as may be determined by the Secretary . . . shall be transferred to . . . this appropriation," was conceded to be legislation on an appropriation bill and held not in order.

On Apr. 27, 1950,⁽¹²⁾ during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 7786), the following point of order was raised:

MR. [KENNETH B.] KEATING [of New York]: Mr. Chairman, I make a point of order against the language on page 205, beginning with line 8:

together with such amounts from other appropriations or authorizations as are provided in the schedules in the Budget for the current fiscal year for such expenses, which several amounts or portions thereof, as may be determined by the Secretary, not exceeding a total of \$207,000, shall be transferred to and made a part of this appropriation: *Provided, however,* That if the total amounts of such appropriations or authorizations for the current fiscal year shall at any time exceed or fall below the amounts estimated, respectively, therefor in the budget for such year, the amounts transferred

12. 96 CONG. REC. 5913, 81st Cong. 2d Sess.

or to be transferred therefrom to this appropriation shall be increased or decreased in such amounts as the Bureau of the Budget, after a hearing thereon with representatives of the Department, shall determine are appropriate to the requirements as changed by such reductions or increases in such appropriations or authorizations.

I make a point of order against all of the remainder of the provision relating to the Office of Solicitor on the ground that the provision therein contained is legislation on an appropriation bill.

. . .

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

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I can only say that this is the usual and customary way of carrying these funds. In fairness to the Chair, I think it does appear to be legislation.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from New York has made a point of order against the language appearing on page 205 beginning with the words "together with such amounts" in line 8 and through the remainder of that paragraph, on the ground it is legislation on an appropriation bill and in violation of the rules of the House. The gentleman from Mississippi concedes the point of order; therefore, the Chair sustains the point of order.

Transfers Within Department

§ 30.14 Language in an appropriation bill authorizing any

13. Jere Cooper (Tenn.).

appropriation therein for the Treasury Department to be transferred to any other appropriation for that department, with approval of the Bureau of the Budget, and requiring the reporting of such transfers to the Committees on Appropriations of the House and Senate, was conceded to be legislation and ruled out on a point of order.

On Apr. 5, 1965,⁽¹⁴⁾ during consideration in the Committee of the Whole of the Treasury and Post Office Departments appropriation bill (H.R. 7060), Mr. H. R. Gross, of Iowa, made a point of order against the provision described above, as being legislation on an appropriation bill and bestowing authority not previously granted by law. The following exchange then took place:

THE CHAIRMAN:⁽¹⁵⁾ Does the gentleman from Oklahoma desire to be heard on the point of order?

14. 111 CONG. REC. 6869, 89th Cong. 1st Sess. The provision in question stated: "Not to exceed 2½% of any appropriation herein for the Treasury Department . . . may be transferred with approval of Bureau of the Budget, to any other appropriation of the Department . . . and such transfers shall be reported promptly to the Committees on Appropriations of the House and Senate."

15. John A. Blatnik (Minn.).

MR. [THOMAS J.] STEED [of Oklahoma]: Mr. Chairman, obviously the language is subject to a point of order, if the gentleman insists on his point of order.

THE CHAIRMAN: The paragraph does contain legislation, as maintained by the gentleman from Iowa; and the Chair sustains the point of order.

§ 30.15 Language in an appropriation bill permitting the transfer of any appropriation available to the Post Office Department for the current fiscal year to be transferred to any other such appropriation was ruled out as legislation.

On Apr. 5, 1965,⁽¹⁶⁾ during consideration in the Committee of the Whole of the Treasury and Post Office Departments appropriation bill (H.R. 7060), a point of order was raised by Mr. H. R. Gross, of Iowa, against the language described above. The following exchange then took place:

THE CHAIRMAN:⁽¹⁷⁾ Does the gentleman from Oklahoma desire to be heard on the point of order?

MR. [THOMAS J.] STEED [of Oklahoma]: Mr. Chairman, this language has been in the bill for many years. I believe the gentleman will find that the transfer authority within this Department is considerably different from

the point he raised in the case of the Treasury,⁽¹⁸⁾ where there was transferability between agencies.

The language probably is subject to a point of order, but it can take from the Department the only device it has to cope with unexpected and unforeseen changes in mail flow volume which can and frequently do occur. That makes transferability almost vital to the efficient functioning of the Department.

THE CHAIRMAN: Does the gentleman from Iowa insist on his point of order?

MR. GROSS: Mr. Chairman, I insist upon the point of order.

THE CHAIRMAN: The paragraph does contain legislative matter, and the point of order is sustained.

Transfers Between Departments

§ 30.16 A provision in a general appropriation bill authorizing the head of any department of the government having funds available for scientific investigations to transfer such funds, under certain conditions, to the Interior Department for expenditure by such department was held to be legislation and ruled out of order.

On May 2, 1951,⁽¹⁹⁾ during consideration in the Committee of the Whole of the Interior Department appropriation bill (H.R. 3790), a

16. 111 CONG. REC. 6869, 89th Cong. 1st Sess.

17. John A. Blatnik (Minn.).

18. See § 30.14, supra.

19. 97 CONG. REC. 4738, 82d Cong. 1st Sess.

point of order was raised against the following provision:

The Clerk read as follows:

Sec. 109. During the current fiscal year the head of any department or establishment of the Government having funds available for scientific and technical investigations within the scope of the functions of the Department of the Interior may, with the approval of the Secretary, transfer to the Department such sums as may be necessary therefor, which sums so transferred may be expended for the same objects and in the same manner as sums appropriated herein but without their limitations.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the language in section 109 on the ground that it is legislation upon an appropriation bill.

MR. [HENRY M.] JACKSON of Washington: Mr. Chairman, we concede the point of order.

THE CHAIRMAN:⁽²⁰⁾ The point of order is sustained.

Funds in Other Acts Available for New Purpose

§ 30.17 A section in a general appropriation bill requiring that funds provided in other acts be available for employment of guards for government buildings and conferring certain powers on those guards and on the Postmaster General was conceded to be subject to a point

of order and was ruled out as in violation of Rule XXI clauses 2 and 5 (5 now clause 6).

On Aug. 1, 1973,⁽¹⁾ during consideration in the Committee of the Whole of the Department of the Treasury, Postal Service, and Executive Office appropriation bill (H.R. 9590) for fiscal 1974, Mr. John D. Dingell, of Michigan, raised a point of order against certain language in the bill:

Sec. 610. Funds made available by this or any other Act to the "Building management fund" (40 U.S.C. 490(f)), and the "Postal service fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section, and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318a, 318b) attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c).

1. 119 CONG. REC. 27291, 93d Cong. 1st Sess.

20. Wilbur D. Mills (Ark.).

MR. DINGELL: Mr. Chairman, I make, again, the same point of order against the entirety of section 610, beginning with line 4 on page 36.

MR. [THOMAS J.] STEED [of Oklahoma]: Mr. Chairman, we concede the point of order.

THE CHAIRMAN:⁽²⁾ The point of order is conceded and sustained.

§ 30.18 A provision in an appropriation bill permitting an appropriation previously made in another act to be used for a new purpose was conceded to be legislation.

On Dec. 11, 1969,⁽³⁾ during consideration in the Committee of the Whole of a bill (H.R. 15209) making supplemental appropriations for fiscal year 1970, Mr. H. R. Gross, of Iowa, raised a point of order against certain language in the bill:

MEMBERS' CLERK HIRE

After June 1, 1970, but without increasing the aggregate basic clerk hire monetary allowance to which each Member and the Resident Commissioner from Puerto Rico is otherwise entitled by law, the appropriation for "Members' clerk hire" may be used for employment of a "student congressional intern" in accord with the provisions of House Resolution 416, Eighty-ninth Congress.

2. Richard Bolling (Mo.).

3. 115 CONG. REC. 38541, 48542, 91st Cong. 1st Sess.

MR. GROSS: Mr. Chairman, I make a point of order against the language on page 6, beginning with line 11 and through line 18, as being legislation on an appropriation bill.

THE CHAIRMAN:⁽⁴⁾ Does the gentleman desire to be heard in support of the point of order?

MR. GROSS: I thought I made the point of order, Mr. Chairman.

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

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, the Committee on Appropriations put this legislation in the bill for the purpose of accommodating Members. It is subject to a point of order, and the point of order is conceded.

THE CHAIRMAN: The gentleman from Texas has conceded the point of order, and the Chair sustains the point of order.

Funds Carried Forward for Same Purpose

§ 30.19 Where the bill providing an annual authorization for the Coast Guard Reserve had not yet been enacted into law, an amendment to a general appropriation bill containing funds for Coast Guard Reserve training and providing that amounts equal to prior year appropriations for that purpose should be transferred to

4. James G. O'Hara (Mich.).

that appropriation was held to contain an unauthorized appropriation in violation of Rule XXI clause 2, and a re-appropriation of unexpended balances in violation of Rule XXI clause 5 (now clause 6).

On June 20, 1973,⁽⁵⁾ during consideration in the Committee of the Whole of the Department of Transportation appropriation bill for fiscal 1974 [H.R. 8760], Mr. George H. Mahon, of Texas, raised a point of order against an amendment offered by Mr. Silvio O. Conte, of Massachusetts. Proceedings were as follows:

Amendment offered by Mr. Conte:
Page 4, after line 23, insert:

RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; \$25,000,000: *Provided*, That amounts equal to the obligated balances against appropriations for "Reserve training" for the two preceeding years shall be transferred to and merged with this appropriation, and such merged appropriation shall be available as one fund, except for accounting purposes of the Coast Guard, for payment of obligations properly incurred against such prior year appropriations and against this appropriation. . . .

MR. MAHON: Mr. Chairman, I insist on my point of order against the

5. 119 CONG. REC. 20538, 20539, 93d Cong. 1st Sess.

amendment. The amendment, in my opinion, is legislation on an appropriation bill and the funds are not authorized by law, so I make the point of order against the amendment. . . .

THE CHAIRMAN:⁽⁶⁾ The Chair is prepared to rule.

Clause 2, rule XXI, prohibits unauthorized items from being included in amendments to a general appropriation bill, and also clause 5, rule XXI, has a prohibition against the reappropriation of unexpended balances of sums appropriated in prior years. The amendment is subject to a point of order for these reasons and the Chair sustains the point of order.

Funds Continued Available for Same Purpose

§ 30.20 In an appropriation bill a provision that "the unexpended balance of appropriations heretofore reserved for moving the International Broadcasting Service to the District of Columbia or its environs shall remain available for such purpose until December 31, 1954," was ruled out, being a reappropriation in violation of Rule XXI clause 5 [now clause 6], the Chair also construing the language to be legislation in violation of Rule XXI clause 2.

6. John M. Murphy (N.Y.).

On Mar. 3, 1954,⁽⁷⁾ the Committee of the Whole was considering H.R. 8067, a State, Justice, and Commerce Departments appropriation. Proceedings were as follows:

MR. [JOHN J.] ROONEY [of New York]: Yes, Mr. Chairman. On page 49, lines 11 to 14, I make a point of order against that language.

THE CHAIRMAN:⁽⁸⁾ Will the gentleman explain his point of order?

MR. ROONEY: This would make available into another fiscal year funds appropriated in the current year. There is no authority in law for this.

THE CHAIRMAN: Does the gentleman from Ohio wish to be heard on the point of order?

MR. [CLIFF] CLEVENGER [of Ohio]: I concede the point of order, Mr. Chairman.

THE CHAIRMAN: The Chair thinks this is legislation on an appropriation bill. Therefore, the point of order is sustained.

Transfer of Funds to Other Agencies of Government for Authorized Work

§ 30.21 A provision in a general appropriation bill permitting reimbursement (or advance transfer) of funds therein between federal agencies for purposes authorized by law is in order as

7. 100 CONG. REC. 2600, 83d Cong. 2d Sess.

8. Leroy Johnson (Calif.).

a direction to the reimbursing agency as to the manner in which such funds are to be expended—where existing law permits the reimbursing agency to requisition services of other federal agencies.

On June 21, 1974,⁽⁹⁾ during consideration of H.R. 15472, the Department of Agriculture, Environmental and Consumer Protection appropriation bill, language authorizing the Environmental Protection Agency to transfer funds to other federal agencies for certain services rendered to the EPA was held not to change provisions of existing law permitting reimbursements between agencies, where the Committee on Appropriations cited statutory authority for such interagency agreements.⁽¹⁰⁾

The Clerk read as follows:

ENERGY RESEARCH AND DEVELOPMENT

For energy research and development activities, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by section 5901-5902, United States Code, title 5; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the

9. 120 CONG. REC. 20592, 20593, 93d Cong. 2d Sess.

10. See 31 USC § 686.

rate of GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; \$103,000,000, to remain available until expended: [Provided, That the Environmental Protection Agency may transfer so much of the funds appropriated herein as it deems appropriate to other federal agencies for energy research and development activities that they may be in a position to supply, or to render:] *Provided further*, That the amount appropriated for "Energy Research and Development" in the Special Energy Research and Development Appropriation Act, 1975, shall be merged, without limitation, with this appropriation: *Provided further*, That none of the funds contained in this Act shall be used to fund the development of automotive power systems: *Provided further*, That this appropriation shall be available only within the limits of amounts authorized by law for fiscal year 1975.

POINT OF ORDER

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I rise to a point of order.

THE CHAIRMAN:⁽¹¹⁾ The gentleman will state it.

MR. DINGELL: Mr. Chairman, I make a point of order against the language at page 33, commencing with the word "provided" at line 17 down through the end of page 33, line 21.

The point of order, Mr. Chairman, is that the language complained of constitutes legislation in an appropriation bill and is, as such, violative of rule XXI, clause 2.

Mr. Chairman, I am prepared, at the convenience of the Chair, to be heard on this point of order.

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

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

Mr. Chairman, the basic authority for interagency agreements is the Economy Act of 1932, which, subject to the limitation noted below, permits the requisitioning of goods and services between Federal agencies. Additionally, there are other statutes applicable to EPA which authorize cooperation and coordination with other Federal agencies, these include section 104(a), (b), (c), (i), (h), (p), and (t) of the Federal Water Pollution Control Act; section 204 of the Solid Waste Disposal Act; section 102(b) and 103 of the Clean Air Act; section 14(1) of the Noise Control Act of 1972; and sections 20(a), 22(b); and 23(b) of the Federal Pesticide Control Act of 1972.

So, the language to which the gentleman objects, while it might be repetitious, is clearly authorized in numerous instances and is not legislation on an appropriation bill, but a repetition of the law as it now exists.

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

MR. DINGELL: I do, Mr. Chairman.

Mr. Chairman, the point of order lies, not to the authority to transfer, but the authority of the receiving agency. As the Chair will note, the Environmental Protection Agency may transfer funds as it deems appropriate to other Federal agencies for energy research and development activities.

First of all, I am not aware of EPA having any development responsibilities in any of the statutes cited. Sec-

11. Sam M. Gibbons (Fla.).

ond, I am not aware of any statutory authority for EPA to transfer as it deems appropriate. This constitutes excessive authority far beyond that existing in present law.

In addition to this, the agencies to whom EPA might transfer funds are not identified, and it is not clear who will be the recipient agencies or what energy research and development activities they shall go into. This is far beyond the authorities under existing law, and I believe that the burden under the Rules of the House is upon the proponents of the legislation to establish the authority under which: First, the funds shall be transferred; and second, under which the activities referred to in the section will be carried out.

One of the principal questions around which the point of order revolves, Mr. Chairman, is the question of, First, who shall conduct the activity; second, what shall be the activity conducted; and third, under what authority will the agency's recipient of the funds spent receive the funds and carry out the development and research projects.

I believe there has been no legislation cited by my good friend from Mississippi which would indicate the authority for other agencies to receive the funds or to engage in development and research activities.

THE CHAIRMAN: The Chair is prepared to rule on the point of order.

The Chair has listened to the arguments of the gentleman from Michigan (Mr. Dingell) and the gentleman from Mississippi (Mr. Whitten), and believes that the arguments are fully covered by Cannon's Precedents, House of Rep-

resentatives, volume 7, page 468, section 1470, which states:

A proposition to transfer funds from one department of government to another for the purposes authorized by law was held not to involve legislation and to be in order in an appropriation bill.

Such reimbursement authority, where shown to be authorized by law is therefore in order.

The Chair overrules the point of order.⁽¹²⁾

Transfer of Funds Specifically Authorized for One Agency to Other Unspecified Agencies

§ 30.22 A paragraph in a general appropriation bill containing funds for the official residence of the Vice President and permitting advances, repayments, or transfers of those funds to other departments or agencies to carry out those activities (where existing law authorized appropriations only to the General Services Administration) was conceded to change existing law and was ruled out in violation of Rule XXI clause 2.

On June 14, 1976,⁽¹³⁾ the following proceedings took place dur-

12. Compare with §§ 30.22 and 30.24, *infra*.

13. 122 CONG. REC. 17854, 94th Cong. 2d Sess.

ing consideration of H.R. 14261 (Treasury, Postal Service, and general government appropriations for fiscal 1977):

The Clerk read as follows:

OFFICIAL RESIDENCE OF THE VICE
PRESIDENT

OPERATING EXPENSES

For the care, maintenance, repair and alteration, furnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, \$61,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

POINT OF ORDER

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, a point of order.

THE CHAIRMAN:⁽¹⁴⁾ The gentleman will state the point of order.

MR. DINGELL: Mr. Chairman, I make a point of order against the language of the bill on page 8, lines 17 through 23, and page 9, lines 1 and 2, as violative of rule XXI, clause 2, constituting legislation in an appropriation bill, referring specifically to the words following the word "Provided", at line 22, "*Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities."

THE CHAIRMAN: Does the gentleman from Oklahoma (Mr. Steed) desire to be heard on the point of order?

MR. [THOMAS J.] STEED: Mr. Chairman, we concede the point of order and

again leave the responsibility on the shoulders of the gentleman who raises it and we will try to make the final bill comply therewith.

THE CHAIRMAN: The gentleman from Oklahoma (Mr. Steed) concedes the point of order. For that reason the point of order is sustained, and the entire paragraph is stricken.

§ 30.23 A paragraph in a general appropriation bill providing for advances, repayments, and transfers from the appropriation therein to any department or agency was ruled out in violation of Rule XXI clause 2 as constituting legislation on an appropriation bill.

On June 8, 1977,⁽¹⁵⁾ the Committee of the Whole had under consideration H.R. 7552, Departments of Treasury, Postal Service, and general government appropriations for 1978.

The Clerk read as follows:

OFFICIAL RESIDENCE OF THE VICE
PRESIDENT

OPERATING EXPENSES

For the care, maintenance, repair and alteration, furnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, \$61,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any

14. B.F. Sisk (Calif.).

15. 123 CONG. REC. 17922, 17923, 95th Cong. 1st Sess.

department or agency for expenses of carrying out such activities:

POINTS OF ORDER

MR. [HERBERT E.] HARRIS [II, of Virginia]: Mr. Chairman, I make a point of order against this portion of the bill on the basis previously stated.

THE CHAIRMAN:⁽¹⁶⁾ Does the gentleman from Oklahoma (Mr. Steed) desire to be heard on the point of order?

MR. [THOMAS J.] STEED: I do, Mr. Chairman.

Mr. Chairman, in this case there is authorization for the item. In the 93d Congress, Senate Joint Resolution 202, passed July 12, 1974, provides for the inclusion of this item in the bill. It is Public Law 93-346.

THE CHAIRMAN: Let the Chair direct a question to the gentleman from Virginia (Mr. Harris) so that the gentleman may clarify his point.

Against what portion of this paragraph does the gentleman make his point of order?

MR. HARRIS: Mr. Chairman, we are dealing with official entertaining expenses in this item, and that is not authorized under law.

THE CHAIRMAN: To what line is the gentleman referring? Will the gentleman from Virginia (Mr. Harris) explain it so we will know to what specific lines of the paragraph he directs his point of order?

MR. STEED: Mr. Chairman, if I may be heard, I believe the gentleman from Virginia (Mr. Harris) made the point of order against the entire item.

MR. HARRIS: Mr. Chairman, this is the item on the Official Executive Resi-

dence of the Vice President, Operating Expenses.

THE CHAIRMAN: Let the Chair state to the gentleman from Virginia (Mr. Harris) that there is authorization for appropriations for the official residence of the Vice President, if that is the point the gentleman is attempting to address in this matter. Therefore, that portion of the paragraph would not be subject to a point of order.

MR. HARRIS: I thank the Chair.

THE CHAIRMAN: The Chair, therefore, overrules the point of order.

MR. [EDWARD J.] DERWINSKI [of Illinois]: Mr. Chairman, I rise to make a point of order.

THE CHAIRMAN: The gentleman from Illinois (Mr. Derwinski) will state his point of order.

MR. DERWINSKI: Mr. Chairman, let me read this to be sure we are speaking of the same item.

I make a point of order against the language of the bill on page 8, lines 20 through 25, and on page 9, lines 1 and 2. That item is entitled "Official Residence of the Vice President—Operating Expenses," and this language violates rule XXI, clause 2, of the Rules of the House. That is the basis for the point of order.

Mr. Chairman, if I may be heard further, we have had previous points of order sustained against this item, and, in fact, in last year's appropriation bill a similar point of order was sustained.

THE CHAIRMAN: Let the Chair state that the present occupant of the chair was the occupant of the chair last year and considered the proviso starting on line 25 of page 8 and continuing through line 26 and lines 1 and 2 on page 9. On that basis the point of

16. B.F. Sisk (Calif.).

order was sustained. However, the earlier designation, as the Chair understood the statement of the gentleman from Virginia (Mr. Harris), would not follow, because basically there is authority for the Vice President's residence.

That is the reason the Chair is giving ample opportunity to the Members to clarify the point of order. A point of order was in fact sustained on the proviso mentioned last year. I understand the gentleman from Illinois (Mr. Derwinski) is making a point of order based on that proviso.

MR. STEED: Mr. Chairman, if I may be heard on the point of order, if we read section 3 of this act, it says that the Secretary of the Navy shall, subject to the supervision and control of the Vice President, provide for the staffing, upkeep, alteration, and furnishing of an official residence and grounds for the Vice President.

Mr. Chairman, I do not know what more authority we need.

THE CHAIRMAN: The Chair will state that in line with the like ruling last year, a paragraph in a general appropriation bill containing funds for the official residence of the President and of the Vice President and providing for advances, repayments or transfers of those funds to other departments or agencies—not just to General Services Administration—was conceded to change existing law and was ruled out as being in violation of clause 2, rule XXI.

Therefore, on the basis of the proviso, the point of order is sustained against the entire paragraph.

Parliamentarian's Note: Under Public Law No. 93-346, appro-

priations for the Vice President's residence are authorized only to GSA, and not to other departments and agencies. If money is authorized only for a purpose and not to an agency, the Chair's ruling would be different.

Transfer Among Accounts Upon Approval of Committee

§ Sec. 30.24 A paragraph in a general appropriation bill authorizing the transfer of funds for allowances and expenses with the approval of the Committee on Appropriations was conceded to constitute legislation in violation of Rule XXI clause 2 and was stricken from the bill on a point of order.

On Mar. 16, 1977,⁽¹⁷⁾ the Committee of the Whole had under consideration H.R. 4877, supplemental appropriations for fiscal year 1977.

The Clerk read as follows:

Such amounts as deemed necessary for the payment of allowances and expenses within this appropriation may be transferred among accounts upon approval of the Committee on Appropriations of the House of Representatives.

POINT OF ORDER

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I make a point of

17. 123 CONG. REC. 7747, 95th Cong. 1st Sess.

order against the language on page 29, line 17 through 20, inclusive, on the grounds that the language as it is written constitutes legislation on an appropriation bill.

In previous instances where an appropriation bill has contained similar language—and I emphasize the word “similar”—the Chair has held that it is permissible to allow language that would transfer appropriations from one subhead to another in the same enactment.

The language before us, if it is read carefully, makes it rather clear that what is being permitted is the transfer of amounts, and they may be transferred, as the language says, among accounts upon approval.

It is not in fact an authorization to transfer amongst the various moneys in this bill, but in fact could be used to authorize the transfer of previously appropriated amounts not in this bill.

Therefore, it exceeds the authority of the committee to in fact consider it.

I would make that point of order.

THE CHAIRMAN:⁽¹⁸⁾ Does the gentleman from Illinois wish to be heard on the point of order?

MR. [GEORGE E.] SHIPLEY [of Illinois]: Mr. Chairman, I will say to the gentleman from Maryland (Mr. Bauman) that this language has been carried for several years in the bill and is subject to a point of order. The committee will concede the point of order.

THE CHAIRMAN: The gentleman from Illinois (Mr. Shipley) concedes the point of order raised by the gentleman from Maryland (Mr. Bauman) and the language is stricken from the bill.

18. Walter Flowers (Ala.).

Transfer of Defense “Funds Available” to State

§ 30.25 A paragraph in a general appropriation bill transferring available funds from a department to another department and directing the use to which those funds must be put was conceded to be legislation in violation of Rule XXI clause 2, as well as a reappropriation violating Rule XXI clause 6.

On Dec. 8, 1982,⁽¹⁹⁾ during consideration in the Committee of the Whole of the Department of Defense appropriation bill (H.R. 7355), a point of order was sustained to a portion of that bill, as follows:

MR. [WILLIAM] NICHOLS [of Alabama]: Mr. Chairman, I have a point of order.

The portion of the bill to which the point of order relates is as follows:

Sec. 793. Of the funds available to the Department of Defense, \$200,000 shall be transferred to the Department of Education which shall grant such sum to the Board of Education of the Highland Falls-Fort Montgomery, New York, central school district. The funds transferred by this section shall be in addition to any assistance to which the Board may be entitled under subchapter 1, chapter 13 of Title 20 United States Code. . . .

I make a point of order against section 793, which provides appropria-

19. 128 CONG. REC. 29449, 29450, 97th Cong. 2d Sess.

tions without authorization, and constitutes legislation on an appropriation bill, which I believe to be in violation of clause 2 of rule XXI. . . .

MR. [JOSEPH P.] ADDABBO [of New York]: . . . Mr. Chairman, the section is subject to a point of order, but this is a special case. These are children of men and women at West Point who are attending the public schools. If these funds are not allocated, the school will close and there will be no school for these young people to attend. . . .

THE CHAIRMAN PRO TEMPORE:²⁰ The gentleman insists on his point of order, and the Chair is ready to rule.

The Chair will have to rule that, for the reasons conceded, the point of order to section 793 as stated by the gentleman from Alabama (Mr. Nichols) is sustained.

§ 31. Transfers or Disposition of Property

Transfer of Federal Property From One Agency to Another Without Exchange of Funds

§ 31.1 A provision of a general appropriation bill authorizing the transfer of title to power facilities from one agency of government to another without exchange of funds was conceded and held to constitute legislation in violation of Rule XXI clause 2.

²⁰ Don Bailey (Pa.).

On Apr. 24, 1951,⁽¹⁾ during consideration in the Committee of the Whole of the Interior Department appropriation bill (H.R. 3790), a point of order was raised against the following provision:

The Clerk read as follows:

TRANSFER OF CERTAIN FACILITIES, DENISON DAM PROJECT

The Secretary of the Army is hereby authorized to transfer to the Secretary of the Interior under arrangements satisfactory to said Secretaries, without exchange of funds, all right, title, and interest, including rights-of-way, of the Department of the Army in and to the Denison-Payne 132-kilovolt transmission line.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the language appearing in the bill beginning line 20, page 4, over to line 2, page 5, on the ground that it is legislation in an appropriation bill.

THE CHAIRMAN:⁽²⁾ Does the gentleman from Washington (Mr. Jackson) desire to be heard on the point of order?

Mr. [HENRY M.] JACKSON of Washington: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The point of order is sustained.

Excess Property to Department of the Interior

§ 31.2 A provision in a general appropriation bill author-

1. 97 CONG. REC. 4301, 82d Cong. 1st Sess.
2. Wilbur D. Mills (Ark.).