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POINTS OF ORDER

Points of order or questions of order are directed against present actions being taken or proposed to be taken by the Senate and deemed to be contrary to the rules, practices, and precedents of the Senate.

Unless by unanimous consent points of order are precluded, or are not timely, any Senator when recognized may make a point of order against any attempted procedure or action to be taken by the Senate, and the Chair is required to rule thereon without debate; but under Senate precedents, the Chair may entertain a discussion thereof for his own edification. Under Rule XX, if the Chair submits the question to the Senate for decision, the matter would be debatable.

Any ruling by the Chair not appealed or which is sustained by vote of the Senate, or any verdict by the Senate on a point of order, becomes a precedent of the Senate which the Senate follows just as it would its rules, unless and until the Senate in its wisdom should reverse or modify that decision.

Rule XX

[Questions of Order]

1. A question of order may be raised at any stage of the proceedings, except when the Senate is voting or ascertaining the presence of a quorum, and, unless submitted to the Senate, shall be decided by the Presiding Officer without debate, subject to an appeal to the Senate. When an appeal is taken, any subsequent question of order which may arise before the decision of such appeal shall be decided by the Presiding Officer without debate; and every appeal therefrom shall be decided at once, and without debate; and any appeal may be laid on the table without prejudice to the pending proposition, and thereupon shall be held as affirming the decision of the Presiding Officer.

2. The Presiding Officer may submit any question of order for the decision of the Senate.

Amendments Between Houses:

See "House Amendment to Senate Amendment to House Bill," pp. 138–139.

Amendments, Points of Order Against:

See also "Points of Order, Precedence Over Another Amendment," p. 97; "Points of Order, When in Order," p. 97; "Points of Order Will Not Lie Against," p. 98.

A point of order may be made against a first degree amendment to which a second degree amendment is pending.[1] A point of order may be lodged against either a first degree amendment or a second degree amendment pending thereto.[2]

Neither the reading of an amendment nor the dispensing with such reading precludes the right of a Senator to make a point of order against that amendment.[3]

A point of order made against an amendment to a general appropriation bill should be ruled upon prior to a division of such amendment requested under the rule.[4]

An amendment against which a point of order has been made may be modified before the Chair rules on the point of order, and when such amendment is a committee amendment the Chairman may be authorized to so modify by a poll of the committee.[5]

Appropriations Bills, Points of Order Against:

See "Germaneness of Amendments to General Appropriation Bills," pp. 161–171; "Modification To Come Within Requirements of Rule," pp. 186–187; "Points of Order," pp. 172–174.

Chair Doesn't Rule in Anticipation of a Happening:

See "When in Order and When Not in Order," pp. 993–995.

Chair Overturned:

On December 11, 1980, the Senate overturned the ruling of the Chair that a committee amendment to a general appropriation bill contained legislation, because it would have prohibited the use of funds in that bill or any other appropriations measure to enforce certain water allocations and would have prohibited the Secretary of the Interior from entering into any contracts with respect to any such allocations.[6]

On November 25, 1980, the Senate overturned the Chair which had held that an amendment to a general appropriation bill which amended existing law was legis-

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[1] Sept. 27, 1984, 98–2, *Record*, p. 27456.
[2] Sept. 29, 1986, 99–2, *Record*, p. 26938.
[3] Aug. 3, 1983, 98–1, *Record*, p. 22445.
[4] *See* Jan. 17, 1917, 64–2, *Record*, p. 1524.
[5] Oct. 25, 1977, 95–1, *Record*, pp. 34903–04.
[6] Dec. 11, 1980, 96–2, *Record*, pp. 33557–58.

lation on an appropriation bill and therefore not in order.[7]

Chair Rules:

When a point of order is made, the Chair must rule thereon unless he submits the question to the Senate for decision; if submitted to the Senate for a decision, a motion to table the point of order would be in order.[8]

The Chair rules on points of order, not the Parliamentarian; the Parliamentarian merely advises the Chair.[9]

Cloture, Points of Order Under:

See "Debate," pp. 305–308; "Point of Order," p. 314.

Conference Reports, Points of Order Against:

See "Conferences and Conference Reports," pp. 483–485.

Constitutional Questions:

See "Constitutionality of Amendments," pp. 52–54.

When a point of order is made against an amendment under the Constitution (on the grounds that the amendment would raise revenue and therefore should originate in the House), the Chair has no authority to rule on the point of order, but submits for debate and decision the question "Is it in order to offer such an amendment to the pending bill?" [10]

Debate of:

See "Appeals, Debate of," pp. 724–726; "Conference Reports, Debate of," pp. 731–733; "Germaneness of Debate," pp. 742–745; "Points of Order, Debate of," pp. 765–766; "Senator Forfeits Right to or Loses Floor Under Certain Conditions," pp. 789–791; "Yielding," pp. 788–797.

The Chair in its discretion may entertain debate on a point of order,[11] otherwise, a point of order is not debatable unless it has been submitted by the Presiding Officer to the Senate.[12]

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[7] Nov. 25, 1980, 96–2, *Record*, pp. 31062–63.
[8] Oct. 15, 1979, 96–1, *Record*, pp. 28283–84.
[9] Sept. 12, 1969, 91–1, *Record*, p. 25321.
[10] Oct. 7, 1983, 97–2, *Record*, pp. 27781–83.
[11] Dec. 11, 1985, 99–1, *Record*, pp. 35870–71; Sept. 24, 1986, 99–2, *Record*, p. 25759.
[12] Sept. 27, 1984, 98–2, *Record*, p. 27456.

A point of order regarding the appropriate time for a cloture vote to occur when the Senate remained in continuous session beyond midnight, was made after the cloture motion was read and a quorum established under Rule XXII. The Chair submitted the point of order to the Senate, and in response to an inquiry indicated that the point or order was not debatable.[13]

In Order When Recognized or Yielded to:

A Senator has no right to make a point of order if another Senator has the floor.[14]

Morning Hour, Point of Order During:

See "Procedure in the Morning Hour," pp. 931–933.

Precedence of:

A point of order which has been submitted to the Senate would take precedence over a motion to refer a bill to a committee, but a motion to recess or adjourn would be in order.[15]

A motion to recess takes precedence over a ruling of the Chair on a point of order, whether or not the Chair has submitted the question to the Senate.[16]

When time for debate on an amendment has expired, a point of order would be in order, but a motion to recommit could intervene.[17]

After a point of order was made against an amendment, a quorum call was instituted, and upon its termination the amendment was modified to correct the defect in the amendment.[18]

Quorum Call:

See also "When in Order and When Not in Order," pp. 993–995.

After a quorum call has been ordered and a Senator answers to his name, it is then too late to make a point of order that no business has intervened.[19]

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[13] *See* Dec. 13, 1979, 96-1, *Record*, p. 35699.
[14] Aug. 4, 1980, 96-2, *Record*, p. 21200.
[15] *See* Sept. 29, 1969, 91-1, *Record*, p. 27525.
[16] Nov. 13, 1987, 100-1, *Record*, pp. S 16258-59.
[17] *See* June 30, 1987, 100-1, *Record*, pp. S 8975-76.
[18] June 6, 1989, 101-1, *Record*, p. S 6148.
[19] Mar. 24, 1922, 67-2, *Record*, p. 4495; July 15, 1947, 80-1, *Record*, p. 8904.

Once a quorum has begun, no business is in order, including a point of order that the quorum call was dilatory.[20]

When the time arrives for a cloture vote, the Chair will direct the Clerk to ascertain the presence of a quorum even if a quorum has just voted, and once the Clerk begins the quorum call no point of order is in order.[21]

A point of order may not be raised pending the execution of an order to compel the attendance of absent Senators to develop a quorum.[22] The Presiding Officer on one occasion during the absence of a quorum declined to entertain a point of order, and after the appearance of a quorum, a point of order that the Senate was not empowered to make such an order relative to compelling the attendance of absent Senators was overruled as having been made too late.[23]

Recognition:

A point of order that a Senator was not in his seat and should not have been accorded recognition over a Senator addressing the Chair from his seat having been overruled, an appeal from the ruling was laid on the table.[24]

Reports, Point of Order:

See "Point of Order Against," pp. 1190–1191.

Rulings by Chair Defined as Business:

See also "Chair Rules," p. 989.

Precedents define rulings by the Chair on a point of order as business.[25]

Submits Questions to Senate:

See also "Points of Order Against a Conference Report," pp. 483–485; "Chair Rules," p. 989.

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[20] Feb. 24, 1982, 97–2, *Record*, p. 2244.
[21] Apr. 19, 1983, 98–1, *Record*, p. 8969.
[22] Jan. 21, 1891, 51–2, *Journal*, p. 88, *Record*, p. 1626.
[23] Jan. 21, 1891, 51–2, *Journal*, pp. 88, 89, *Record*, pp. 1624–26.
[24] May 30, 1908, 60–1, *Record*, p. 7260.
[25] *See* Mar. 19, 1947, 80–1, *Record*, p. 2261.

Under Rule XX, the Presiding Officer may submit any question of order to the Senate for decision,[26] and if submitted it is debatable.[27]

When a point of order is submitted to the Senate, the yeas and nays thereon are not automatic.[28]

Table:

A motion to table a point of order not submitted to the Senate but to be ruled on by the Chair is not in order.[29]

A motion to lay on the table a point of order submitted to the Senate is in order and not debatable.[30]

If a point of order is made against a motion and the point of order is tabled, the motion against which the point of order was made would be the pending question left before the Senate.[31]

While a point of order which has been submitted to the Senate is pending, a motion to table the amendment against which the point of order was made is in order.[32]

Under a unanimous consent agreement only limiting the time for debate of a point of order which had been submitted to the Senate without specifying that the Senate would vote on that motion, a motion to table the point of order would be in order after the time had expired.[33]

Treaty Reservation:

A point of order, during the consideration of the treaty of peace with Germany, that a proposed reservation was covered by a committee reservation which had been previously adopted was overruled.[34]

A point of order that a reservation was not in fact a reservation but an amendment to the treaty should be submitted to the Senate.[35]

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[26] Dec. 20, 1969, 91-1, *Record*, pp. 40411-14.
[27] *See* Jan. 28, 1963, 88-1, *Record*, pp. 1218-19, 1232-33.
[28] May 18, 1988, 100-2, *Record*, p. S 6079.
[29] Oct. 15, 1979, 96-1, *Record*, pp. 28283-84.
[30] June 20, 1957, 85-1, *Record*, p. 9817; *see* Oct. 15, 1979, 96-1, *Record*, pp. 28283-84.
[31] *See* Jan. 18, 1967, 90-1, *Record*, pp. 918-19.
[32] Oct. 7, 1983, 97-2, *Record*, pp. 27781-83.
[33] *See* Sept. 29, 1969, 91-1, *Record*, p. 27525.
[34] Nov. 18, 1919, 66-1, *Record*, pp. 8745-46.
[35] Apr. 17, 1945, 79-1, *Record*, pp. 3408-09.

Unanimous Consent Agreements, Points of Order Under:

See "Points of Order Under a Unanimous Consent Agreement," pp. 1356–1359.

When in Order and When Not in Order:

Except as noted below, a point of order can be raised against a matter at any stage of the proceedings prior to its disposition,[36] even if another amendment has been offered thereto,[37] as well as against a conference report,[38] but a Senator in possession of the floor may not be interrupted without his consent or be taken from the floor in the midst of his speech by a point of order.[39]

A point of order may not be made against a matter on which there is a limitation of debate until that time has expired.[40]

Neither the reading of an amendment nor the dispensing with such reading precludes the right of a Senator to make a point of order against that amendment,[41] but a Senator has no right to make a point of order if he does not have the floor.[42]

A Senator has no right to make a point of order if another Senator has the floor.[43]

A point of order against a committee amendment to an appropriation bill is in order even though a second degree amendment thereto is pending.[44]

When the time arrives for a cloture vote, the Chair will direct the clerk to ascertain the presence of a quorum

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[36] Feb. 26, 1891, 51–2, *Record*, p. 3336; *see also* Oct. 1, 1951, 82–1, *Record*, p. 12425; Oct. 26, 1942, 77–2, *Record*, p. 8657; Apr. 1, 1920, 66–2, *Record*, p. 5094; Feb. 28, 1905, 58–3, *Record*, p. 3643; May 26, 1920, 66–2, *Journal*, p. 288, *Record*, pp. 7656–58.

[37] *See* Jan. 30, 1980, 96–2, *Record*, pp. S592–606.

[38] Feb. 22, 1919, 65–3, *Record*, pp. 4046–48.

[39] *Ibid;* Aug. 8, 1978, 95–2, *Record*, pp. 24832–33; June 5, 1934, 73–2, *Record*, p. 10479; Apr. 27, 1935, 74–1, *Record*, p. 6500; Apr. 2, 1937, 75–1, *Record*, p. 3065; Oct. 13, 1949, 81–1, *Record*, pp. 14403–04: Apr. 21, 1949, 81–1, *Record*, p. 4889; Apr. 5. 1949, 81–1, *Record*, p. 3875; Apr. 4, 1949, 81–1, *Record*, p. 3782; Mar. 12, 1949, 81–1, *Record*, pp. 2350–51; Feb. 28, 1949, 81–1, *Record*, pp. 1585–86; June 19, 1948, 80–2, *Record*, pp. 8966–67; July 26, 1947, 80–1, *Record*, pp. 10405–06; July 24, 1947, 80–1, *Record*, pp. 9994, 9996–97, 10000, 10007, 10128–29; Jan. 23, 1946, 79–2, *Record*, p. 234; Feb. 22, 1913, 62–3, *Record*, p. 3662; *see also* July 27, 1914, 63–2, *Record*, p. 12793; Dec. 16, 1937, 75–2, *Record*, p. 1612; Mar. 13, 1945, 79–1, *Record*, p. 2107.

[40] Oct. 2, 1986, 99–2, *Record*, p. 27921; Dec. 18, 1982, 97–2, *Record*, p. 32288; Aug. 22, 1978, 95–2, *Record*, pp. 27249–59; Apr. 30, 1979, 96–1, *Record*, pp. 8926–27.

[41] Aug. 3, 1983, 98–1, *Record*, p. 22445.

[42] Dec. 15, 1982, 97–2, *Record*, pp. 31043–44.

[43] Aug. 4, 1980, 96–2, *Record*, p. 21200.

[44] Aug. 10, 1982, 97–2, *Record*, pp. 20063–68.

even if a quorum has just voted, and once the clerk begins the quorum call no point of order is in order.[45]

A point of order cannot be made against a transaction until it has occurred.[46] The Chair, whether the motion is dilatory in nature or not, will not rule on a point of order that is in anticipation of an event happening; the event must be present for the Chair to rule on the point of order.[47]

A point of order cannot he made against an amendment until the amendment is pending before the Senate.[48] Likewise, a point cannot be raised against an amendment while the mover thereof is addressing the Senate even if the consideration is under a debate limitation by a unanimous consent agreement,[49] nor can a Senator make a point of order where another Senator has the floor without obtaining the latter's permission.[50]

Once a quorum call has begun, no business is in order, including a point of order that the quorum call was dilatory.[51]

A point of order against a report is not in order until a motion to take up the bill has been made,[52] and, in 1931, a point of order was made against the consideration of a Senate bill when a motion was made to that effect on the ground that the bill was a revenue-raising measure; which question was submitted to the Senate for decision, but pending debate a motion to table the motion to consider was made and agreed to.[53]

Although a point of order would lie against the consideration of a measure ordered reported from a committee when less than a majority of all committee members were present, it is premature to make this point of order before the measure is brought before the Senate, and such point of order would be waived by a provision waiving all points of order against a particular measure or against its consideration.[54]

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[45] Apr. 19, 1983, 98-1, *Record*, p. 8969.
[46] Sept. 18, 1961, 87-1, *Record*, pp. 20018-20.
[47] Mar. 14, 1972, 92-2, *Record*, pp. 8304-05.
[48] *See* Feb. 2, 1965, 89-1, *Record*, p. 1844.
[49] Apr. 5, 1950, 81-2, *Record*, pp. 4774-75, 4779-88.
[50] June 9, 1976, 94-2, *Record*, p. 17257. *See* Feb. 7, 1963, 88-1, *Record*, pp. 2091-94, Feb. 14, 1963, 88-1, *Record*, pp. 2354-56.
[51] Feb. 24, 1982, 97-2, *Record*, p. 2244.
[52] *See* Nov. 12, 1942, 77-2, *Record*, pp. 8797-98.
[53] Mar. 2, 1931, 71-3, *Journal*, p. 317.
[54] Feb. 2, 1988, 100-2, *Record*, pp. S 444-45.

Under a unanimous consent agreement limiting debate and controlling time, a Senator cannot make a point of order against an amendment, on the ground that it was not germane, until debate thereon has been concluded,[55] or the time has been exhausted or yielded back; [56] at least while the proponent of an amendment has time remaining for debate, it is not in order for another Senator to make a point of order against the amendment on the ground of nongermaneness.[57]

A unanimous consent agreement that provides for an up or down vote on an amendment precludes a motion to table that amendment, but does not waive points of order against the amendment.[58]

A unanimous consent agreement to permit a second degree amendment to be offered while time remains on a first degree amendment does not waive points of order against the second degree amendment.[59]

While one point of order is pending, a Senator may not make another point of order.[60]

When a Senator made a point of order against an amendment under both Rule XVI and the Congressional Budget Act, the Chair requested that he "separate his two points of order." The Senator then pressed his point of order under the Budget Act, while reserving his rights under Rule XVI.[61] The amendment fell on the first point of order, after a motion to waive the Budget Act failed.[62]

When Made Too Late:

After a response has been made to a rollcall, it is too late to raise a point of order; [63] even a point of order that the demand for the yeas and nays had not been sufficiently seconded is not in order.[64]

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[55] June 10, 1952, 82-2, *Record*, pp. 6910, 6918; June 19, 1952, 82-2, *Record*, pp 7608-10.

[56] Mar. 16, 1956, 84-2, *Record*, p. 4953; Mar. 20, 1973, 93-1, *Record*, p. 8799.

[57] May 28, 1952, 82-2, *Record*, pp. 6107-08.

[58] Mar. 11, 1983, 98-1, *Record*, pp. 4483, 4944.

[59] July 20, 1982, 97-2, *Record*, p. 16981.

[60] July 22, 1968, 90-2, *Record*, p. 22579; Dec. 13, 1979, 96-1, *Record*, pp. 35691-701; Oct. 3, 1977, 95-1, *Record*, pp. 31922-24.

[61] July 27, 1989, 101-1, *Record*, pp. S 8926-28, 8933.

[62] July 27, 1989, 101-1, *Record*, p. S 8942.

[63] Dec. 19, 1913, 63-2, *Record*, p. 1217.

[64] Feb. 11, 1927, 69-2, *Record*, p. 3515.

It is too late to make a point of order against an amendment to a general appropriation bill after it has been agreed to by the Senate.[65]

A point of order against an amendment to a general appropriation bill, interposed during a yea and nay vote thereon, is not in order as having been made too late.[66]

Withdraw Point of Order:

See also "Points of Order," p. 987.

A point of order having been made against an amendment as not being germane and the Chair having ruled the amendment out of order, under a unanimous consent agreement, the point of order could not be withdrawn except by unanimous consent.[67]

A Senator who made a point of order would be entitled to withdraw it if the Senate had taken no action on it.[68]

Once the Chair has ruled on a point of order, it is too late for the Senator who made the point of order to withdraw it.[69]

Yeas and Nays Not in Order:

A request for the yeas and nays on a ruling (on a point of order) is not in order.[70]

Yeas and Nays, Ordering of:

A point of order will not lie against the action of the Chair in counting Senators to ascertain whether a sufficient number have seconded the demand for the yeas and nays.[71]

Yield for:

A Senator may refuse to yield to another for a point of order.[72]

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[65] Mar. 24, 1904, 58-2, *Record*, pp. 3621-22.
[66] May 20, 1896, 54-1, *Record*, p. 5456.
[67] Mar. 20, 1973, 93-1, *Record*, p. 8829.
[68] Aug. 10, 1982, 97-2, *Record*, p. 20067; Oct. 7, 1983, 97-2, *Record*, pp. 27781-83.
[69] July 22, 1982, 97-2, *Record*, pp. 17514, 17516-17.
[70] May 15, 1963, 88-1, *Record*, pp. 8706, 8709-11.
[71] Aug. 15, 1962, 87-2, *Record*, pp. 16633-34.
[72] July 24, 1956, 84-2, *Record*, pp. 14190-91.