

QUESTIONS OF ORDER

DECIDED IN THE HOUSE OF REPRESENTATIVES AT THE FIRST SESSION, ONE HUNDREDTH
ELEVENTH CONGRESS

HON. NANCY PELOSI OF CALIFORNIA, SPEAKER

LORRAINE C. MILLER OF TEXAS, CLERK

QUESTIONS OF ORDER

POINT OF ORDER

(¶10.15)

TO A BILL ADDRESSING ECONOMIC STABILIZATION AND ASSISTANCE FUNDS AND HOUSING MATTERS, AN AMENDMENT PROPOSED IN A MOTION TO RECOMMIT BROACHING THE SOLVENCY OF VARIOUS SOCIAL SECURITY TRUST FUNDS IS NOT GERMANE.

THE HOUSE LAID ON THE TABLE AN APPEAL FROM THE RULING OF THE SPEAKER PRO TEMPORE.

On January 21, 2009, Mr. FRANK of Massachusetts, made a point of order against the motion to recommit, and said:

“Madam Speaker, having read the motion, I insist on my point of order.

“It is not germane calling on spending under the jurisdiction of the Committee on Ways and Means and other matters entirely outside the jurisdiction of the Financial Services Committee and mandating spending not covered by this bill.”

Mr. GOHMERT was recognized to speak to the point of order and said:

“Madam Speaker, I applaud the chairman’s efforts to try to rein in some of the actions by the Secretary of the Treasury. I think it’s well intentioned. But it directs the Secretary of the Treasury to take action. So does the motion to recommit.

“The bill itself attempts to direct the Treasury Secretary to take certain actions and to be more accountable, whereas the motion to recommit directs the Treasury Secretary in a different direction and says he must put the \$350 billion back in the Treasury and allow a 2-month tax holiday so the American taxpayer can bail out the economy, not a Treasury Secretary. We’ve seen enough of that for the last 3 months.

“So, Madam Speaker, I understand the chairman’s point of order. I believe it’s inappropriate. But if there were a vote, even on a vote to table, the American taxpayers understand it’s a vote on whether the Treasurer gets to trickle down on them or whether they get to spend the money that they themselves earned and prop up the economy by whom they select.”

Mr. FRANK of Massachusetts, was further recognized and said:

“Madam Speaker, the argument is that because the bill directs the Secretary of the Treasury to do certain things that are within the jurisdiction of the Financial Services Committee,

it is therefore allowed if you want to direct the Secretary of the Treasury to do anything. Now, it might, I suppose, be that the Secretary of Treasury could declare war on somebody under that theory, except my colleagues there don’t believe having any check on the executive power to declare war; so they wouldn’t vote that. There is a clear violation here of the rules.

“The gentleman from Texas then says, well, if you don’t vote to totally disregard the rules of the House, because this isn’t even a clear question by getting into Ways and Means jurisdiction, then you must not like what I want. The notion that people who believe that the rules ought to be followed are somehow disagreeing with the substance, of course, makes no sense. And, in fact, if there were a real intent to do this, I would assume a bill to do it would have been introduced and made available to the appropriate committees. No bill’s been introduced. No serious effort has been made to do this.

“I hope that the point of order is sustained.”

The SPEAKER pro tempore, Mrs. TAUSCHER, sustained the point of order, and said:

“The amendment offered by the gentleman from Texas, in pertinent part, seeks to transfer funds to the Social Security trust funds.

“The bill, as amended, addresses the distribution of TARP funds but does not broach the issue of the solvency of the various Social Security trust funds.

“As such, the amendment fails the subject-matter test of germaneness.

“The point of order is sustained. The motion is not in order.”

Mr. GOHMERT appealed the ruling of the Chair.

The question being stated,
Will the decision of the Chair stand as the judgment of the House?

Mr. FRANK of Massachusetts, moved to lay the appeal on the table.

The question being put, viva voce,
Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER pro tempore, Mrs. TAUSCHER, announced that the yeas had it.

Mr. GOHMERT demanded a recorded vote on the motion, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 251
affirmative } Nays 176

¶10.16

[Roll No. 24]

So, the motion to lay the appeal on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶15.6)

PURSUANT TO SECTION 426(B)(4) OF THE CONGRESSIONAL BUDGET ACT OF 1974, A MEMBER WHO MAKES A POINT OF ORDER UNDER SECTION 426(A) OF THE ACT AND SATISFIES THE THRESHOLD BURDEN SPECIFIED IN SECTION 426(B)2 OF THE ACT BY CITING LANGUAGE IN THE RESOLUTION THAT WAIVES THE APPLICATION OF SECTION 425 OF THE ACT IS RECOGNIZED TO CONTROL ONE-HALF OF THE 20 MINUTES PROVIDED FOR DEBATE ON THE QUESTION OF CONSIDERATION.

PURSUANT TO SECTION 426(B)(3) OF THE CONGRESSIONAL BUDGET ACT OF 1974, AS DISPOSITION OF A POINT OF ORDER RAISED UNDER SECTION 426(A) OF THE ACT, THE CHAIR PUTS THE QUESTION OF CONSIDERATION WITH RESPECT TO THE PROPOSITION THAT IS THE OBJECT OF THE POINT OF ORDER.

On January 28, 2009, Mr. STEARNS made a point of order against consideration of House Resolution 92 and said:

“Madam Speaker, I raise a point of order against consideration of the rule because the rule contains a waiver of all points of order against the provisions in the bill and amendments made in order by the rule and, therefore, it is in violation of section 426 of the Congressional Budget Act.”

The SPEAKER pro tempore, Mrs. TAUSCHER, responded to the point of order, and said:

“The gentleman from Florida makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

“In accordance with section 426(b)(2) of the Act, the gentleman from Florida has met the threshold burden to identify the specific language in the resolution on which the point of order is predicated.

“Pursuant to section 426(b)(3) of the Act, after debate, the Chair will put the question of consideration, to wit: ‘Will the House now consider said resolution?’”

Mr. STEARNS was further recognized and said:

“I will be using most of my arguments from the Congressional Budget Office cost estimate dated January 26, 2009. The CBO and the Joint Committee

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on Taxation estimated that enacting the provisions in division B would reduce revenues by \$76 billion in fiscal year 2009, by \$131 billion in fiscal year 2010, and by a net of \$212 billion over the 2009–2010 period.

“So combining the spending and revenue effects of H.R. 1, the CBO estimates that enacting the bill would increase the Federal budget deficit by over \$170 billion over the remaining months of the fiscal year 2009, by \$356 billion in the year 2010 and \$174 billion in 2011, and it continues on, \$816 billion over the period 2009 to 2019.

“There is a wide range of Federal programs here which increase the benefits payable under the Medicaid unemployment compensation nutrition assistance program, and the legislation would also reduce individual and corporate income tax collections and make a variety of other changes to tax laws. This is basically an unfunded mandate.

“CBO anticipates that this bill would have a noticeable impact on economic growth and employment in the next few years. Following long-standing congressional budget procedures, this estimate does not address the potential budget effects of such changes in economic outlook. But the point that the CBO is making is that this is a huge unfunded mandate, particularly in the Medicaid and unemployment compensation and nutrition assistance program.

“So with that, Madam Speaker, in light of the provisions in the bill and the amendments made in order by the rule, are, therefore, in violation of section 426 of the Congressional Budget Act, I do, Madam Speaker, raise this point of order.”

Ms. SLAUGHTER was recognized to speak to the point of order and said:

“Madam Speaker, technically this point of order is about whether or not to consider this rule and ultimately the underlying bill. In reality, it’s about trying to block this bill without any opportunity for debate and without any opportunity for an up-or-down vote on the legislation itself. I think that is wrong and hope my colleagues will vote ‘yes’ so we consider this important legislation on its merits and not kill it on a procedural motion.

“We have a long day ahead. Let’s not waste more time on dilatory measures. Those who oppose this bill can vote against it on final passage. We must consider this rule, and we must pass H.R. 1 today.

“I have the right to close, and, in the end, I will urge my colleagues to vote ‘yes’ to consider the rule.”

Mr. DREIER was recognized to speak to the point of order and said:

“Madam Speaker, I thank my friend for yielding and let me say that I rise in strong support of this effort to raise this point of order. And I will say to the distinguished Chair of the Committee on Rules, this 10-minute period of time is when we can debate whether or not this is, in fact, an unfunded mandate that is going to dramatically

increase costs. That’s what this debate is all about.

“It’s not about simply killing the bill, it’s about utilizing a procedure that exists here in this institution, and I hope very much that our colleagues will join with our friend from Florida and ensure that we do address this very, very important issue.”

Mr. STEARNS was further recognized and said:

“Madam Speaker, if I may continue, the distinguished chairwoman of the Rules Committee has indicated that this point of order would eliminate debate and not offer the opportunity to Members to really discuss the rule at all. But I would like to say to her, and she was in the Rules Committee when I came out to present my amendment, when the Energy and Commerce Committee marked up that portion of the stimulus package, we were in session for 12 hours. During that time we had six amendments accepted on the Republican minority side.

“It turns out that all six of these amendments were agreed to unanimously by the majority. When the bill went to print and when I went to the Rules Committee, I found my amendment was not included, and neither was the gentleman from Pennsylvania, Mr. MURPHY’s or Mr. BLUNT’s. Three of the amendments were not included, and we questioned how could this be that out of a full markup of Energy and Commerce Committee, we passed six amendments and only three were put in. Yet the Speaker’s office had a sheet, a fact sheet, which indicated that all six amendments were put in the bill and all six of these amendments show the bipartisan-ness of this stimulus package.

“Now I think what happened on the Energy and Commerce Committee happened in the Ways and Means Committee and it happened in Appropriations Committee. So this, in fact, stimulus package is not bipartisan.

“Reading from the Office of Speaker NANCY PELOSI, her fact sheet of January 27, 2009, she says this is a bipartisan, open and transparent legislative process. It is not, Madam Speaker. The amendments that came out of Energy and Commerce, 50 percent were dropped arbitrarily, capriciously, without any comment from the minority.

“Now one of those amendments, which was mine, indicated if you are going to give federal subsidies for COBRA, which is unemployment compensation for individuals in America, why give them to people who have a net worth of \$1 million or \$100 million?

“There was no threshold in this bill. So, I basically said, if you’re going to give COBRA subsidies, that is you’re asking to have the taxpayers pay 65 percent of the COBRA for anybody unemployed, including a man who, for example, left Lehman Brothers or Bernie Madoff; all those people who, under the Democrats’ position in the stimulus package, would be able to apply for COBRA subsidies and have the tax-

payers in my home county have to pay for their health benefits.

“They are asking the taxpayers to pay 65 percent almost indefinitely. And I basically said this should not apply to people that are making \$100 million, \$10 million, or have a net worth of that amount. And, Mr. WAXMAN, who is the chairman of the Energy and Commerce, was kind enough to say, I agree with you, and that should be part of the bill. So my amendment was agreed to.”

Mr. DREIER was further recognized and said:

“I’d simply like to inquire of him again about this procedure through which this committee went. It’s my understanding that these amendments were all adopted in a bipartisan way, with a unanimous vote in support of these amendments that were later just dropped from the bill that was introduced. And then, we have this statement from the Speaker’s press office, a fact sheet stating, In the Energy and Commerce Committee, 57 amendments were dropped, and 43 by Republicans, 6 of which were adopted and incorporated into the bill.

“Is that correct?”

Mr. STEARNS was further recognized and said:

“I thank the distinguished Member. That is absolutely true. And I think, as he clearly points out, I think we should really ask the distinguished chairwoman of the Rules Committee, why were, in this case, three amendments that were agreed upon in Energy and Commerce, why were they dropped from the print?

“And, perhaps if she can’t, then I think really the Speaker, whose office this fact sheet came from, should clearly tell us why she dropped amendments that were passed through the democratic process here in the House of Representatives of the United States of America. Yet, they have a fact sheet saying they are still in here. She uses the word ‘bipartisan’ when you can’t say it’s bipartisan if, in my case, my amendment is not in there. It was agreed upon. And others in the Energy and Commerce, their amendments are not here as well.

“So I would be glad to yield time to the distinguished chairwoman of the Rules Committee to find out why these amendments, after they were passed overwhelmingly in the Energy and Commerce Committee, are not in the print.

“The distinguished chairwoman of the Rules Committee, does she wish to answer?”

Ms. SLAUGHTER was further recognized and said:

“We had a thorough airing of this last night, Madam Speaker. Everybody knows what happened here. It had nothing at all to do with the Rules Committee.”

Mr. DREIER was further recognized and said:

“With all due respect, for the Chair of the Committee on Rules to stand up and say we had an hour discussion on this last night, and everybody knows

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what happened. Madam Speaker, I don't think the author of the amendment, Mr. STEARNS, was there when last night in the Rules Committee discussed this and this came forward. I just don't see that as any kind of answer."

Mr. STEARNS was further recognized and said:

"Madam Speaker, it's clear she has no response to the rhetorical question: Why were amendments that were agreed upon in the Energy and Commerce dropped capriciously and arbitrarily from the print. And I think we will just let that as a question remain in the House of Representatives and point out to all the Members that when the Speaker puts out a sheet, a fact sheet, in which she says it's a bipartisan bill, it's open and transparent, well, that obviously is not true.

"There's no one on the Democrat side here this morning to explain how amendments that were agreed upon in Energy and Commerce were dropped, and perhaps the same was true of the Ways and Means, and also the Appropriations Committee.

"And, for those Members, like myself, who came up and asked why my amendment that was accepted was not included as an amendment to the stimulus package, and the distinguished chairwoman of the Rules Committee cannot even answer the simple question of why were amendments not included, when in fact they were passed overwhelmingly in Energy and Commerce."

Ms. SLAUGHTER was further recognized and said:

"Madam Speaker, let me correct what Mr. DREIER thinks I said. I said we had a thorough airing of this issue last night at Rules. Although it is not our job to explain why the Speaker's press office—Certainly, by now, we know a red-herring when we see one. This is one of the reddest I have seen in such time that I have been here. And I urge my colleagues to vote 'yes' on a motion to consider so that we can get about the business of the United States, debate, and pass this important piece of legislation that over 80 percent of the people want us to do."

After debate,

The question being put, *viva voce*,

Will the House now consider the resolution?

The SPEAKER pro tempore, Mrs. TAUSCHER, announced that the yeas had it.

Mr. STEARNS demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the

Yeas	.....	240
Nays	.....	174

¶15.7

[Roll No. 39]

So, the House decided to consider said resolution.

A motion to reconsider the vote whereby the House decided to consider

the resolution was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

(¶20.25)

A RESOLUTION ALLEGING THAT A MEMBER RECEIVED CAMPAIGN CONTRIBUTIONS IN VIOLATION OF LAW AND GIFTS IN VIOLATION OF HOUSE RULES AND FAILED TO PAY INCOME TAX IN VIOLATION OF FEDERAL LAW, DIRECTING THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO INVESTIGATE HIM, AND REMOVING HIM AS CHAIR OF A STANDING COMMITTEE PENDING SUCH INVESTIGATION, PRESENTS A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

THE HOUSE LAID ON THE TABLE A RESOLUTION CONSIDERED AS A QUESTION OF THE PRIVILEGES OF THE HOUSE.

On February 10, 2009, Mr. CARTER rose to a question of the privileges of the House and submitted the following resolution (H. Res. 143):

Whereas, the gentleman from New York, Charles B. Rangel, the fourth most senior Member of the House of Representatives, serves as chairman of the House Ways and Means Committee, a position of considerable power and influence within the House of Representatives; and,

Whereas, clause one of rule 23 of the Rules of the House of Representatives provides, "A Member, Delegate, Resident Commissioner, officer, or employee of the House shall conduct himself at all times in a manner that shall reflect creditably on the House;"

Whereas, The New York Times reported on September 5, 2008, that, "Representative Charles B. Rangel has earned more than \$75,000 in rental income from a villa he has owned in the Dominican Republic since 1988, but never reported it on his federal or state tax returns, according to a lawyer for the congressman and documents from the resort"; and,

Whereas, in an article in the September 5, 2008 edition of The New York Times, his attorney confirmed that Representative Rangel's annual congressional Financial Disclosure statements failed to disclose the rental income from his resort villa; and,

Whereas, The New York Times reported on September 6, 2008 that, "Representative Charles B. Rangel paid no interest for more than a decade on a mortgage extended to him to buy a villa at a beachfront resort in the Dominican Republic, according to Mr. Rangel's lawyer and records from the resort. The loan, which was extended to Mr. Rangel in 1988, was originally to be paid back over seven years at a rate of 10.5 percent. But within two years, interest on the loan was waived for Mr. Rangel,"; and,

Whereas, clause 5(a)(2)(A) of House Rule 25 defines a gift as, "... a gratuity, favor, discount entertainment, hospitality, loan, forbearance, or other item having monetary value" and prohibits the acceptance of such gifts except in limited circumstances; and,

Whereas, Representative Rangel's acceptance of thousands of dollars in interest forgiveness is a violation of the House gift ban; and,

Whereas, Representative Rangel's failure to disclose the aforementioned gifts and income on his Personal Financial Disclosure Statements violates House rules and federal law; and,

Whereas, Representative Rangel's failure to report the aforementioned gifts and in-

come on federal, state and local tax returns is a violation of the tax laws of those jurisdictions; and,

Whereas, the Committee on Ways and Means, which Representative Rangel chairs, has jurisdiction over the United States Tax Code; and,

Whereas, the House Committee on Standards of Official Conduct first announced on July 31, 2008 that it was reviewing allegations of misconduct by Representative Rangel; and,

Whereas, The House Committee on Standards of Official Conduct announced on September 24, 2008 that it had established an investigative subcommittee in the matter of Representative Rangel; and,

Whereas, The New York Times reported on November 24, 2008 that, "Congressional records and interviews show that Mr. Rangel was instrumental in preserving a lucrative tax loophole that benefited [Nabors Industries] an oil drilling company last year, while at the same time its chief executive was pledging \$1 million to the Charles B. Rangel School of Public Service at C.C.N.Y.,"; and,

Whereas, the House Committee on Standards of Official Conduct announced on December 9, 2008 that it had expanded the jurisdiction of the aforementioned investigative subcommittee to examine the allegations related to Representative Rangel's involvement with Nabors Industries; and,

Whereas, Roll Call newspaper reported on September 15, 2008 that, "The inconsistent reports are among myriad errors, discrepancies and unexplained entries on Rangel's personal disclosure forms over the past eight years that make it almost impossible to get a clear picture of the Ways and Means chairman's financial dealings,"; and,

Whereas, Roll Call newspaper reported on September 16, 2008 that, "Rangel said he would hire a 'forensic accountant' to review all of his disclosure forms going back 20 years, and to provide a report to the House Committee on Standards of Official Conduct, which Rangel said will then make public,"; and,

Whereas, nearly five months after Representative Rangel pledged to provide a public forensic accounting of his tax and federal financial disclosure records, he has failed to do so; and,

Whereas, an editorial in The New York Times on September 15, 2008 stated, "Mounting embarrassment for taxpayers and Congress makes it imperative that Representative Charles Rangel step aside as chairman of the Ways and Means Committee while his ethical problems are investigated,"; and,

Whereas, on May 24, 2006, then Minority Leader Nancy Pelosi cited "high ethical standards" in a letter to Representative William Jefferson asking that he resign his seat on the Committee on Ways and Means in light of ongoing investigations into alleged financial impropriety by Representative Jefferson.

Whereas, by the conduct giving rise to this resolution, Representative Charles B. Rangel has dishonored himself and brought discredit to the House; and,

Therefore, be it *Resolved*, Upon adoption of this resolution and pending completion of the investigation into his affairs by the Committee on Standards of Official Conduct, Representative Rangel is hereby removed as chairman of the Committee on Ways and Means.

The SPEAKER pro tempore, Mr. JACKSON of Illinois, ruled that the resolution submitted did present a question of the privileges of the House under rule IX.

Mr. CROWLEY moved to lay the resolution on the table.

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The question being put, viva voce,
Will the House lay the resolution on the table?

The SPEAKER pro tempore, Mr. JACKSON of Illinois, announced that the yeas had it.

Mr. CARTER demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the affirmative	Yeas 242 Nays 157 Answered present 16	

¶20.26 [Roll No. 57]

So, the motion to lay the resolution on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶23.5)

PURSUANT TO SECTION 426(B)(4) OF THE CONGRESSIONAL BUDGET ACT OF 1974, A MEMBER WHO MAKES A POINT OF ORDER UNDER SECTION 426(A) OF THE ACT AND SATISFIES THE THRESHOLD BURDEN SPECIFIED IN SECTION 426(B)2 OF THE ACT BY CITING LANGUAGE IN THE RESOLUTION THAT WAIVES THE APPLICATION OF SECTION 425 OF THE ACT IS RECOGNIZED TO CONTROL ONE-HALF OF THE 20 MINUTES PROVIDED FOR DEBATE ON THE QUESTION OF CONSIDERATION.

PURSUANT TO SECTION 426(B)(3) OF THE CONGRESSIONAL BUDGET ACT OF 1974, AS DISPOSITION OF A POINT OF ORDER RAISED UNDER SECTION 426(A) OF THE ACT, THE CHAIR PUTS THE QUESTION OF CONSIDERATION WITH RESPECT TO THE PROPOSITION THAT IS THE OBJECT OF THE POINT OF ORDER.

On February 13, 2009, Mr. DREIER made a point of order against consideration of House Resolution 168 and said:

"Madam Speaker, I make a point of order against this resolution because the resolution is in violation of section 426(a) of the Congressional Budget Act.

"The resolution before us violates the provisions of 426(a) because it contains a waiver of all points of order against the conference report, including a waiver of section 425 of the Congressional Budget Act which prohibits the consideration of a conference report in violation of the Unfunded Mandates Reform Act.

"We got this 1,000-page package online after midnight, totally in violation of the 48-hour commitment that was made by every Member to support that period of time during which it could be read; and we have no idea, Madam Speaker, as to whether or not there are in fact unfunded mandates in this measure."

The SPEAKER pro tempore, Mrs. TAUSCHER, responded to the point of order, and said:

"The gentleman from California makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

"In accordance with section 426(b)(2) of the Act, the gentleman from Florida has met the threshold burden to identify the specific language in the resolution on which the point of order is predicated.

"Pursuant to section 426(b)(3) of the Act, after debate, the Chair will put the question of consideration, to wit: 'Will the House now consider the resolution?'"

Mr. DREIER was further recognized and said:

"As we begin this debate, our thoughts and prayers go to all of the victims and the families and Mrs. SLAUGHTER whom I know is dealing with that issue, Madam Speaker.

"Let me say, as we now focus on this very, very important debate, we had a unanimous vote here in the House, a unanimous vote, that called for 48 hours to be provided for Members of Congress and the American people to see this measure before we would have a chance to vote on it. We all know, as Speaker PELOSI said yesterday, that this is both transformational and historic. And for that reason, I believe that if we have a measure before us that is historic and transformational, we should comply with the vote that was cast by every single Member who was present at the time saying that 48 hours should be provided. And unfortunately, there was virtually no time provided. We had a copy of the bill placed before us in the Rules Committee very late last night. And it is my understanding that the online measure at that point, which was touted by Members who were in the Rules Committee, actually omitted three sections of the bill and that it was not placed online as we're going to be voting on it today until after midnight; after midnight. So that means earlier this morning is when it was placed online.

"Now, Madam Speaker, I have a statement here from our good friend, the distinguished majority leader, Mr. HOYER, who said, 'The House is scheduled to meet at 9 a.m. tomorrow and is expected to proceed directly to consideration of the American Recovery and Reinvestment conference report. The conference report text will be filed this evening, giving Members enough time to review the conference report before voting on it tomorrow afternoon.'

"Madam Speaker, the American people are hurting. We are going through one of the most difficult economic challenges that we've faced in modern history. There is no doubt about it. In fact, if one looks at the economic downturn, we suffered in 1991 and 2001 very, very shallow economic recessions. The early 1980s was the last time we faced a challenge as difficult as the one we are in the midst of today. We have put forward a very pro-growth economic package that I know that the American people would be able to sup-

port. And I'm convinced, based on the empirical evidence that we have of what took place in 1961 and 1981, it would unleash the potential of the American people, because we are the most productive worker on the face of the Earth. We are the people who are the most innovative in the world. And for us to, in any way, constrain that growth potential is, I believe, wrong.

"And what we have before us is a 1,000-page bill. This is 1,000 pages, Madam Speaker. And I'm reminded when Ronald Reagan was delivering a State of the Union message when he held up a document that was just about like this, and he dropped it right there on the lectern. And he said that he would never sign anything like that again. And here we are on Friday the 13th of 2009, we are in the midst of considering a measure following a campaign that promised transparency, disclosure, accountability and hope. And as we listened to the debate last night in the Rules Committee, which went on for quite a while, I have to say that there is a lot of hope involved in this 1,000-page bill. But there are things about it that we know. It is approaching \$1 trillion when you take interest in consideration. I know it is \$790 billion, but when you take into consideration the interest that will be shouldered, it is a \$1 trillion package. We know that.

"The hope is that people are saying it is this or nothing else, Madam Speaker, this or nothing else. And I have got to tell you that that is not the case. That is not the case. We, as Republicans, have come forward with a package from our economic stimulus working group which I believe would prevent us from having to deal with anything like this whatsoever. And the point of order that I'm raising, Madam Speaker, has to do with the fact that we don't know what is in here. I don't think that anyone knows whether or not there are unfunded mandates in here that have been imposed on the private sector, on the American people, or on local governments."

Mr. PERLMUTTER was recognized to speak to the point of order and said:

"Technically, this point of order is about whether or not to consider the rule and ultimately the underlying bill. But we know what it is really about, and that is about trying to block the bill without any opportunity for debate and without any opportunity for an up-or-down vote on the legislation itself. And that is just plain wrong.

"I sincerely hope my colleagues will vote 'yes' so we can consider this critical legislation today on its merits and not kill it on a procedural motion. We have a long day ahead. Let's not waste any more time on trying to stop this legislation from being debated or enacted. Those who oppose the bill can vote against it on final passage. That is their prerogative. We must consider this rule, and we must pass this conference report for the American Recovery and Reinvestment Act today.

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"I have the right to close. But in the end, I will urge my colleagues to vote 'yes' to consider the rule."

Mr. POE of Texas, was recognized to speak to the point of order and said:

"Madam Speaker, procedure is important. Procedure rules are important because they are placed there for a reason. This House unanimously voted that there should be 48 hours after a bill is filed before we voted on it. The reason for that is to give us time to read it. It is unconscionable that we would vote on a 1,000-page bill without at least reading the bill. But we didn't get 48 hours. I guess the motion really meant 4 to 8 hours, because that is all we've really received, 4 to 8 hours to decide whether or not to proceed.

"We need more time to read the bill. Let's stay here until tomorrow or Sunday or Monday. But let's read the bill, regardless of our position on it, and then we can be knowledgeable to vote on this \$1-trillion package one way or the other. The idea that we're going to vote on a bill we haven't read because we didn't get time to do it is absurd, Madam Speaker."

Mr. DREIER was further recognized and said:

"Madam Speaker, this saddens me greatly. President Obama has come forward and talked about the issue of transparency, disclosure and accountability, and he has talked about hope, and he has talked about change. And we've all been very inspired by the words of President Obama. And we've been inspired by many of his actions and his effort to reach out and work with us in a bipartisan way to deal with the challenge of getting our economy back on track. It is something that I believe is terrific. It's wonderful. And it's what is needed at this time.

"But I will say, Madam Speaker, that as we look at what has been put before us, a 1,000-page bill, and we are told by so many that if we don't vote for this bill, we're choosing to do nothing, in fact, I will say that I did not like it when the President said that there are some out there who want to do nothing. And Madam Speaker, I will say that I know of no Republican, no Democrat, I know of no one in this country who wants to do nothing. Because just the other night when I had a telephone town hall meeting and listened to a number of people, including a small contractor, a small businessman who is a building contractor, having trouble getting access to credit so that he can get to work, I was struck with the fact that he told me, looking at a \$1-trillion measure is not only not going to help him, but in fact, it will exacerbate, it will worsen the challenges that he has. We talked about our alternative.

"In fact, in this town hall meeting, Madam Speaker, one of my constituents asked me at the outset to support President Obama and his package. And when I began explaining the difficulty with this package and the alternative that we have that is focused on small businesses, entrepreneurs, the self-employed and families across this coun-

try, focusing on marginal rate reduction, focusing on encouraging responsibility so that people can gain equity in their homes by incentivizing them to make a greater down payment on that home and to take up the inventory that exists there, as I walked through these provisions, this person who began saying to me that it was imperative that I support this package then said, your alternative makes much more sense.

"And so, Madam Speaker, I want to disabuse any of my colleagues of this notion that we want to do nothing. We very much want to work diligently to ensure that we can get our economy back on track. And we have a pro-growth package which is modeled after what John F. Kennedy did in 1961 and what Ronald Reagan did in 1981."

Mr. PERLMUTTER was further recognized and said:

"Madam Speaker, again I want to urge a 'yes' vote so that we can consider this rule and consider the legislation today. It is not a time for delay. It is not a time for inaction. For 8 years, we've had continued deferred maintenance, we've had continued problems in the economy to the point we are now required to move forward and move forward in a bold way. That is the purpose of the American Recovery and Reinvestment Act. It has been discussed and debated over the course of the last month in full view of the American people. And it is time to take it up here in the Congress and pass it.

"And with that I urge a 'yes' on the consideration of the rule."

After debate,
The question being put, viva voce,
Will the House now consider said resolution?

The SPEAKER pro tempore, Mrs. TAUSCHER, announced that the yeas had it.

So, the House decided to consider said resolution.

A motion to reconsider the vote whereby the House decided to consider the resolution was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶26.13)

PURSUANT TO SECTION 426(B)(4) OF THE CONGRESSIONAL BUDGET ACT OF 1974, A MEMBER WHO MAKES A POINT OF ORDER UNDER SECTION 426(A) OF THE ACT AND SATISFIES THE THRESHOLD BURDEN SPECIFIED IN SECTION 426(B)(2) OF THE ACT BY CITING LANGUAGE IN THE RESOLUTION THAT WAIVES THE APPLICATION OF SECTION 425 OF THE ACT IS RECOGNIZED TO CONTROL ONE-HALF OF THE 20 MINUTES PROVIDED FOR DEBATE ON THE QUESTION OF CONSIDERATION.

PURSUANT TO SECTION 426(B)(3) OF THE CONGRESSIONAL BUDGET ACT OF 1974, AS DISPOSITION OF A POINT OF ORDER RAISED UNDER SECTION 426(A) OF THE ACT; THE CHAIR PUTS THE QUESTION OF CONSIDERATION WITH RESPECT TO THE PROPOSITION THAT IS THE OBJECT OF THE POINT OF ORDER.

On February 25, 2009, Mr. FLAKE made a point of order against the resolution and said:

"Mr. Speaker, I raise a point of order against House Resolution 184 because the resolution violates section 426(a) of the Congressional Budget Act. The resolution contains a waiver of all points of order against consideration of the conference report, which includes a waiver of section 425 of the Congressional Budget Act, which causes the violation of section 426(a)."

The SPEAKER pro tempore, Mr. WEINER, responded to the point of order, and said:

"The gentleman from Arizona makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

"In accordance with section 426(b)(2) of the Act, the gentleman from Arizona has met the threshold burden to identify the specific language in the resolution on which the point of order is predicated.

"Pursuant to section 426(b)(3) of the Act, after debate, the Chair will put the question of consideration, to wit: 'Will the House now consider the resolution?'"

Mr. FLAKE was further recognized and said:

"Mr. Speaker, this point of order is against the bill because it may contain unfunded mandates. We have in this body a question of consideration where we shouldn't move ahead with a bill if it might contain unfunded mandates.

"Mr. Speaker, the point I want to make is we have no idea whether this contains unfunded mandates or not. I can't tell you definitively if it does, and here's why:

"This is the bill. This is the bill that we received less than 48 hours ago. It contains, for example, roughly 9,000 earmarks. Now, somebody please correct me if I'm wrong, but I don't believe in my time here—it's getting heavy. I'll put it down. In my time here in 8 years I don't think I have ever seen a bill, and I know that it didn't happen prior to my time here, where one single bill has contained this many earmarks, 9,000. And let me point out this is a combination of nine bills, only three of which went even through the Committee on Appropriations. The rest of them didn't even go through the full committee, just the subcommittee. We didn't have the ability to go to the floor and challenge any of these. That just wasn't available to us.

"So here we are today with this stack that we just got less than 48 hours ago and we are told that we have to pile through and try to see if these 9,000 earmarks, which is part of a spending bill that spends \$410 billion, to see if they're valid, to see if there is a Federal nexus, to see if there might be anything untoward. We don't know. None of us can actually go through that, and so we shouldn't proceed with consideration of this bill.

"One way to look at it is that there are 9,000 earmarks in the bill. The way that we should look at it as well, and I

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don't know how many, nobody can tell me how many, but it's a safe bet to assume there are a few thousand, at least, no-bid contracts. These are earmarks that go to private companies that nobody else has a chance to bid on.

"Now, one of the best lines I felt that the President used last night, and it was one of the greatest applause lines that we had and justifiably so, the President said we have had no-bid defense contracts with regard to Iraq, and we shouldn't. And the whole place erupted in applause. I myself stood up. We shouldn't do that. Yet in this piece of legislation, we have at least a few thousand no-bid contracts. No-bid contracts that are going to private companies whose executives and the lobbyists who represent them have contributed millions of dollars to Members in this body, the same Members who have requested those earmarks.

"Now, one need not suggest that there is anything untoward in any of them only to suggest that somebody on the outside certainly thinks there is. There is one group, the PMA group, who makes a habit of requesting a lot of earmarks in bills. In fact, in the 2008 defense bill, they got \$300 million in earmarks for their clients from this body. That same lobbying firm has clients receiving a dozen or so earmarks in this bill. These are earmarks to private companies. These are no-bid contracts that we are doing that we all stand up and applaud when the President says we shouldn't have no-bid contracts going to private companies, and yet in this piece of legislation we are going to consider today, unless we stop consideration, we're going to be approving thousands of no-bid contracts to private companies.

"Now, can anybody in this body stand to tell me that that is right and proper? Are we upholding the dignity of the House and the decorum of the House by doing so? We know that there is an investigation going on right now of one of those firms that sought earmarks and received earmarks in this bill. A lobbying firm received several for their clients. Yet they remain in this piece of legislation."

Mr. MCGOVERN was recognized to speak to the point of order and said:

"Once again, Mr. Speaker, my colleagues on the other side of the aisle are using this procedural maneuver to try to prevent consideration of an important piece of legislation.

"Technically, the point of order is about whether or not to consider this rule and ultimately the underlying bill. But we all know that it's really about trying to block this bill without any opportunity for debate and without any opportunity for an up-or-down vote on the merits of the legislation itself.

"I oppose any effort to shut down debate in consideration of this bill, and I urge my colleagues to vote 'yes' so we can consider this important piece of legislation on its merits and not kill it on a procedural motion.

"The underlying bill we are talking about represents the compilation of nine appropriations bills from last year. There is important funding in here for health care, for education, for transportation, to help move our economy forward. Those who oppose the bill can vote against it on final passage, but we must consider this rule, and we must pass this legislation today.

"Mr. Speaker, I have the right to close, but, in the end, I will urge my colleagues to vote 'yes' to consider the rule."

Mr. FLAKE was further recognized and said:

"The gentleman makes a point that we should discuss the merits of the bill. This point of order is raised against continuing because we don't know if there are unfunded mandates in the bill.

"Again, I will yield to the gentleman if he can assure me that there are no unfunded mandates in this bill, if he can say that he has read this piece of legislation or that he knows that there are none, because I think that it's incumbent upon us."

Mr. MCGOVERN was further recognized and said:

"I will say to the gentleman, as far as I know, there are no unfunded mandates in this bill."

Mr. FLAKE was further recognized and said:

"Thank you. As far as I know, there might be, there may not be.

"But I can tell you, when you have a bill this large that we got just 48 hours ago, we simply don't know.

"Typically, several years ago, we were having problems, we had Members of this body who were indicted and were convicted and are now in jail for earmark abuse. We said at that time that we should have reform, we should have transparency. We got some transparency, and that's great, and I applaud the other side of the aisle for doing what they did to bring this about.

"Transparency, sunlight always illuminates, but doesn't always disinfect, contrary to popular belief. You have to follow up transparency with something else.

"Some may say we have a transparent process now because we got copies of 9,000 earmarks 48 hours in advance of considering the legislation, but I don't have the ability, nor does any Member of this body, to actually challenge any of the 9,000 earmarks contained in this legislation.

"Typically, appropriation bills come to the floor under an open rule, which allows Members of Congress to challenge specific earmarks. Are there one of these no-bid contracts, for example, that was lobbied for by the PMA group, a group that is now under Federal investigation that has since imploded just days after it was revealed they were under investigation?

"Are some of these earmarks, perhaps, untoward? Many people would actually like to challenge that, have the author, have the one who secured the

earmark come to the floor and defend that earmark: 'Here is why this company deserves a no-bid contract. Here is why I know, as a Member of Congress, that nobody else can provide the services that they can provide, and they deserve a no-bid contract. Here is why.' We aren't allowed to do that, because this legislation is coming to the floor under a closed rule and no amendments like that are even offered. I can't challenge any earmarks in this legislation, nor can anybody in this body. It's one vote for the whole package.

"We are better than that. The people who sent us here deserve better than that. This great institution deserves better than that. Let's not proceed with consideration of this legislation.

"Mr. Speaker, later today we will be considering a privileged resolution that is brought to the floor to ask the Ethics Committee to investigate the relationship between earmarks and campaign contributions.

"We know, as I mentioned, that the Department of Justice is currently conducting that kind of investigation. Politico reported just a few days ago that several sources have said that the Department of Justice has been building a case based on earmarks and campaign contributions or investigating earmarks and campaign contributions.

"Yet our own Ethics Committee guidelines state that earmarks that are received from those who we get a no-bid contract for are proper and not a problem.

"My fear is that our own Ethics Committee here in the House has a different standard, a more lax standard than, perhaps, the Department of Justice has. And Members of Congress, who are securing earmarks or no-bid contracts for private companies, might be exposed more than they think they are.

"And even if they aren't, upholding the dignity and decorum of this body dictates that we do something more here, that we actually have a process that is above reproach. And when you have investigations swirling out there over lobby firms and others, we aren't upholding the decorum and dignity of this body.

"This resolution that we will consider later today is not a partisan resolution. No Member is mentioned. No party is mentioned. And before you vote to table this resolution, to kill it, please consider, don't we deserve better here?

"Shouldn't we have a standard that's higher than indictment and conviction? Don't the people who sent us here deserve a little better than that?"

Mr. MCGOVERN was further recognized and said:

"Mr. Speaker, I am going to urge my colleagues to vote 'yes' on this motion so we can consider the underlying bill, which is a compilation of nine appropriations bills, which really represents kind of a completion of last year's work. There is money in here for important transportation projects, for

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health care projects, for education projects, all very important to get our economy moving again.

"I would also say that the earmark process has been much improved since the Democrats took control of the Congress. There is more transparency, as the gentleman conceded, and I think there is more scrutiny given to individual earmarks.

"But let me just say one other thing. I believe in the integrity, in the character of every single person that serves in this Congress, and I believe the people, Republicans and Democrats, do the best they can for their constituents. And I really take exception when the character of individuals in this Congress is brought into question and somehow a vague allegation is out there that there is something sinister going on.

"The bottom line is that the vast majority of these earmarks go to things like emergency rooms at hospitals, go to bridges to help rebuild infrastructure, go to help schools and to help kids get an education.

"I would say to the gentleman if he is uncomfortable with this process, that he should know that 40 percent of the earmarks that are in these underlying bills are Republican earmarks. And so that old saying, 'Physician, heal thyself,' I would suggest that he bring this up to members of his own conference.

"But I believe that these bills represent the hard work of Republicans and Democrats. There are good things in these bills. We need to move forward on this. We can't delay. If we delay, I think it will have a negative impact on our economy.

"So I want to urge my colleagues to vote 'yes' on this motion to consider so we can debate and pass this important piece of legislation today."

After debate,

The question being put, viva voce,

Will the House now consider the resolution?

The SPEAKER pro tempore, Mr. WEINER, announced that the yeas had it.

Mr. FLAKE demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the	{	Yeas	234
affirmative	}	Nays	177

¶26.14 [Roll No. 83]

So, the House decided to consider said resolution.

A motion to reconsider the vote whereby the House decided to consider the resolution was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

(¶26.20)

A RESOLUTION ALLEGING A RELATIONSHIP

BETWEEN CAMPAIGN CONTRIBUTIONS AND REQUESTS BY MEMBERS FOR APPROPRIATIONS, AND DIRECTING THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO INVESTIGATE SUCH RELATIONSHIP, PRESENTS A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

THE HOUSE LAID ON THE TABLE A RESOLUTION CONSIDERED AS A QUESTION OF THE PRIVILEGES OF THE HOUSE.

On February 25, 2009, Mr. FLAKE rose to a question of the privileges of the House and submitted the following resolution (H. Res. 189):

Whereas, Roll Call reported on February 9, 2008, that the offices of a prominent lobbying firm had been raided by the FBI in November;

Whereas, The New York Times reported on February 10, 2009, that "Federal prosecutors are looking into the possibility that a prominent lobbyist may have funneled bogus campaign contributions" to Members of Congress;

Whereas, the Washington Post reported on February 14, 2009, that they "examined contributions that were reported as being made by the firm's employees and consultants, and found several people who were not registered lobbyists and did not work for the lobbying firm";

Whereas, Roll Call reported on February 11, 2009, that "the defense-appropriations-focused lobbying shop that the FBI raided this November" had in recent years "spread millions of campaign contributions to law-makers";

Whereas, The Hill reported on February 10, 2009, that the raided firm "earned more than \$14 million in lobbying revenue" and "specializes in obtaining earmarks in the defense budget for a long list of clients";

Whereas, The Hill reported on February 10, 2009, that the 2008 clients of this firm had "received \$299 million worth of earmarks, according to Taxpayers for Common Sense";

Whereas, CQ Today reported on February 19, 2009, that "104 House Members got earmarks for projects sought by clients of the firm in the 2008 defense appropriations bills," and that 87 percent of this bipartisan group of Members received campaign contributions from the raided firm;

Whereas, CQ Today also reported that "Members who took responsibility for the firm's earmarks in that spending bill have, since 2001, accepted a cumulative \$1,815,138 in campaign contributions from the firm's political action committee and employees";

Whereas, Roll Call reported on February 19, 2009, that a bipartisan group of four Members have made plans to divest themselves of campaign contributions received from the raided firm;

Whereas, Politico reported on February 12, 2009, that "several sources said FBI agents have spent months laying the groundwork for their current investigation, including conducting research on earmarks and campaign contributions";

Whereas, numerous press reports and editorials have alleged several cases of influence peddling between Members of Congress and outside interests seeking Federal funding;

Whereas, such reports and editorials reflect public distrust and have raised inquiries and criticism about the integrity of congressional proceedings and the dignity of the institution; and

Whereas, the House of Representatives should respond to such claims and demonstrate integrity in its proceedings:

Now, therefore, be it Resolved That—

(a) The Committee on Standards of Official Conduct, or a subcommittee of the com-

mittee designated by the committee and its members appointed by the chairman and ranking member, is instructed to investigate the relationship between earmark requests already made by Members and the source and timing of past campaign contributions.

(b) The Committee on Standards of Official Conduct shall submit a report of its findings to the House of Representatives within 2 months after the date of adoption of this resolution.

The SPEAKER pro tempore, Mr. HOLDEN, ruled that the resolution submitted did present a question of the privileges of the House under rule IX.

Mr. HOYER moved to lay the resolution on the table.

The question being put, viva voce,

Will the House lay the resolution on the table?

The SPEAKER pro tempore, Mr. HOLDEN, announced that the yeas had it.

Mr. FLAKE demanded a recorded vote on agreeing to said motion, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the	{	Yeas	226
affirmative	}	Nays	182
		Answered	12
		present	12

¶26.21 [Roll No. 87]

So, the motion to lay the resolution on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

(¶31.24)

A RESOLUTION ALLEGING A RELATIONSHIP BETWEEN CAMPAIGN CONTRIBUTIONS AND REQUESTS BY MEMBERS FOR APPROPRIATIONS, AND DIRECTING THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO INVESTIGATE SUCH RELATIONSHIP, PRESENTS A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

THE HOUSE LAID ON THE TABLE A RESOLUTION CONSIDERED AS A QUESTION OF THE PRIVILEGES OF THE HOUSE.

On March 5, 2009, Mr. FLAKE rose to a question of the privileges of the House and submitted the following resolution (H. Res. 212):

Whereas The Hill reported on February 10, 2009, that "a top defense-lobbying firm" that "specializes in obtaining earmarks in the defense budget for a long list of clients" was "recently raided by the FBI.;"

Whereas Roll Call reported on February 11, 2009, that "the defense-appropriations-focused lobbying shop" had in recent years "spread million of dollars of campaign contributions to lawmakers.;"

Whereas Politico reported on February 13, 2009, that "federal investigators are asking about thousands of dollars in campaign contributions to lawmakers as part of an effort to determine whether they were illegal 'straw man' donations.;"

Whereas Roll Call reported on February 20, 2009, that they have "located tens of thou-

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sands of dollars worth of [the raided firm]-linked donations that are improperly reported in the FEC database.”;

Whereas Roll Call also reported that “tracking Federal Election Commission records of campaign donations attributed to [the firm] is a comedy of errors, misinformation and mysteries, providing more questions than answers about how much money the lobbying firm actually raised for Congressional campaigns.”;

Whereas CQ Today reported on February 19, 2009, that “104 House members got earmarks for projects sought by [clients of the firm] in the 2008 defense appropriations bills,” and that 87 percent of this bipartisan group of Members received campaign contributions from the raided firm;

Whereas The Hill reported on February 10, 2009, that in 2008 clients of this firm had “received \$299 million worth of earmarks, according to Taxpayers for Common Sense.”;

Whereas The Hill reported on February 23, 2009, that “clients of a defense lobby shop under investigation are continuing to score earmarks from their patrons in Congress, despite the firm being on the verge of shutting its doors permanently” and that several of the firm’s clients “are slated to receive earmarks worth at least \$8 million in the omnibus spending bill funding the federal government through the rest of fiscal 2009 . . .”;

Whereas the Washington Post reported on June 13, 2008, in a story describing increased earmark spending in the House version of the fiscal year 2009 defense authorization bill that “many of the earmarks serve as no-bid contracts for the recipients.”;

Whereas the Associated Press reported on February 25, 2009, that “the Justice Department’s fraud section is overseeing an investigation into whether [the firm] reimbursed some employees for campaign contributions to members of Congress who requested the projects.”;

Whereas Politico reported on February 12, 2009, that “several sources said FBI agents have spent months laying the groundwork for their current investigation, including conducting research on earmarks and campaign contributions.”;

Whereas the reportedly fraudulent nature of campaign contributions originating from the raided firm, as well as reports of the Justice Department conducting research on earmarks and campaign contributions, raise concern about the integrity of congressional proceedings and the dignity of the institution; and

Whereas the fact that cases are being investigated by the Justice Department does not preclude the Committee on Standards of Official Conduct from taking investigative steps: Now, therefore, be it

Resolved, That (a) the Committee on Standards of Official Conduct, or an investigative subcommittee of the committee established jointly by the chair and ranking minority member shall immediately begin an investigation into the relationship between earmark requests on behalf of clients of the raided firm already made by Members and the source and timing of past campaign contributions related to such requests.

(b) The Committee on Standards of Official Conduct shall submit a report of its findings to the House of Representatives within 2 months after the date of adoption of this resolution.

The SPEAKER pro tempore, Mr. ROSS, ruled that the resolution submitted did present a question of the privileges of the House under rule IX.

Mr. CLYBURN moved to lay the resolution on the table.

The question being put, viva voce,
Will the House lay the resolution on the table?

The SPEAKER pro tempore, Mr. ROSS, announced that the yeas had it.

Mr. FLAKE demanded a recorded vote on agreeing to said motion, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the affirmative	Yea	.....	222	Nays	.....	181	Answered present	14				

¶31.25 [Roll No. 105]

So, the motion to lay the resolution on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

(¶34.15)

A RESOLUTION ALLEGING A RELATIONSHIP BETWEEN CAMPAIGN CONTRIBUTIONS AND REQUESTS BY MEMBERS FOR APPROPRIATIONS, AND DIRECTING THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO INVESTIGATE SUCH RELATIONSHIP, PRESENTS A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

THE HOUSE LAID ON THE TABLE A RESOLUTION CONSIDERED AS A QUESTION OF THE PRIVILEGES OF THE HOUSE.

On March 10, 2009, Mr. FLAKE, rose to a question of the privileges of the House and submitted the following resolution (H. Res. 228):

Whereas The Hill reported on February 10, 2009, that “a top defense-lobbying firm” that “specializes in obtaining earmarks in the defense budget for a long list of clients” was “recently raided by the FBI.”;

Whereas the Associated Press reported on February 25, 2009 that the “FBI searched the lobbying firm . . . and the residence of its founder. . .”;

Whereas The Hill reported on March 4, 2009, that the firm “has given \$3.4 million to 284 Members of Congress”;

Whereas Politico reported on February 13, 2009, that “federal investigators are asking about thousands of dollars in campaign contributions to lawmakers as part of an effort to determine whether they were illegal “straw man” donations.”;

Whereas Roll Call reported on February 20, 2009, that they have “located tens of thousands of dollars worth of [the raided firm]-linked donations that are improperly reported in the FEC database.”;

Whereas Roll Call also reported that “tracking Federal Election Commission records of campaign donations attributed to [the firm] is a comedy of errors, misinformation and mysteries, providing more questions than answers about how much money the lobbying firm actually raised for Congressional campaigns.”;

Whereas CQ Today reported on February 19, 2009, that “104 House members got earmarks for projects sought by [clients of the firm] in the 2008 defense appropriations bills,” and that 87 percent of this bipartisan group of Members received campaign contributions from the raided firm;

Whereas The Hill reported on February 10, 2009, that in 2008 clients of this firm had “re-

ceived \$299 million worth of earmarks, according to Taxpayers for Common Sense.”;

Whereas The Hill reported on February 23, 2009, that “clients of a defense lobby shop under investigation are continuing to score earmarks from their patrons in Congress, despite the firm being on the verge of shutting its doors permanently” and that several of the firm’s clients “are slated to receive earmarks worth at least \$8 million in the omnibus spending bill funding the federal government through the rest of fiscal 2009...”;

Whereas the Washington Post reported on June 13, 2008, in a story describing increased earmark spending in the House version of the fiscal year 2009 defense authorization bill that “many of the earmarks serve as no-bid contracts for the recipients.”;

Whereas the Associated Press reported on February 25, 2009, that “the Justice Department’s fraud section is overseeing an investigation into whether [the firm] reimbursed some employees for campaign contributions to members of Congress who requested the projects.”;

Whereas Politico reported on February 12, 2009, that “several sources said FBI agents have spent months laying the groundwork for their current investigation, including conducting research on earmarks and campaign contributions.”;

Whereas House Resolution 189, instructing the Committee on Standards of Official Conduct to investigate the relationship between earmark requests already made by Members and the source and timing of past campaign contributions, was considered as a privileged matter on February 25, 2009, and the motion to table the measure was agreed to by recorded vote of 226 to 182 with 12 Members voting present;

Whereas House Resolution 212, instructing the Committee on Standards of Official Conduct to investigate the relationship between earmark requests already made by Members on behalf of clients of the raided firm and the source and timing of past campaign contributions, was considered as a privileged matter on March 3, 2009, and the motion to table the measure was agreed to by recorded vote of 222 to 181 with 14 Members voting present;

Whereas the reportedly fraudulent nature of campaign contributions originating from the raided firm, as well as reports of the Justice Department conducting research on earmarks and campaign contributions, raise concern about the integrity of congressional proceedings and the dignity of the institution; and

Whereas the fact that cases are being investigated by the Justice Department does not preclude the Committee on Standards of Official Conduct from taking investigative steps: Now, therefore, be it

Resolved, That (a) the Committee on Standards of Official Conduct, or an investigative subcommittee of the committee established jointly by the chair and ranking minority member, shall immediately begin an investigation into the relationship between earmark requests for fiscal year 2009 already made by Members on behalf of clients of the raided firm and the source and timing of past campaign contributions related to such requests.

(b) The Committee on Standards of Official Conduct shall submit a report of its findings to the House of Representatives within 2 months after the date of adoption of this resolution.

The SPEAKER pro tempore, Mr. ROSS, ruled that the resolution submitted did present a question of the privileges of the House under rule IX.

Mr. CLYBURN moved to lay the resolution on the table.

The question being stated, viva voce,

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Will the House lay the resolution on the table?

The SPEAKER pro tempore, Mr. ROSS, announced that the yeas had it. Mr. FLAKE objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present, The roll was called under clause 6, rule XX, and the call was taken by electronic device.

When there appeared	}	Yeas 228 Nays 184 Answered present 14
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¶34.16 [Roll No. 113]

So, the motion to lay the resolution on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

(¶40.5)

A RESOLUTION ALLEGING A RELATIONSHIP BETWEEN CAMPAIGN CONTRIBUTIONS AND REQUESTS BY MEMBERS FOR APPROPRIATIONS, AND DIRECTING THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO INVESTIGATE SUCH RELATIONSHIP, PRESENTS A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

THE HOUSE LAID ON THE TABLE A RESOLUTION CONSIDERED AS A QUESTION OF THE PRIVILEGES OF THE HOUSE.

On March 19, 2009, Mr. FLAKE rose to a question of the privileges of the House and submitted the following resolution (H. Res. 265):

Whereas, Mr. Paul Magliocchetti, a former Appropriations Committee staffer, founded a prominent lobbying firm specializing in obtaining defense earmarks for its clients and whose offices—along with the home of the founder—were recently raided by the FBI.

Whereas, the lobbying firm has shuttered its political action committee and is scheduled to cease operations at the end of the month but, according to the New York Times, “not before leaving a detailed blueprint of how the political money churn works in Congress” and amid multiple press reports that its founder is the focus of a Justice Department investigation. (The New York Times, February 20, 2009)

Whereas, CQ Today noted that the firm has “charged \$107 million in lobbying fees from 2000 through 2008” and estimates of political giving by the raided firm have varied in the press, with The Hill reporting that the firm has given \$3.4 million to no less than 284 members of Congress. (CQ Today, March 12, 2009; The Hill, March 4, 2009)

Whereas, The Hill reported that Mr. Magliocchetti is “under investigation for [the firm’s] campaign donations,” the Washington Post highlighted the fact that federal investigators are “focused on allegations” that he “may have reimbursed some of his staff to cover contributions made in their names . . .” and the New York Times noted that federal prosecutors are “looking into the possibility” that he “may have funneled bogus campaign contributions” to members of Congress. (The Hill, February 20, 2009; The Washington Post, February 14, 2009; The New York Times, February 11, 2009)

Whereas, Roll Call reported on “the suspicious pattern of giving established by two Floridians who joined [the firm’s] board of directors in 2006” and who, with “no previous political profile . . . made more than \$160,000 in campaign contributions over a three-year period” and “generally contributed the same amount to the same candidate on the same days.” (Roll Call, February 20, 2009)

Whereas, The Hill also reported that “the embattled defense lobbyist who led the FBI-raided [firm] has entered into a Florida-based business with two associates whose political donations have come into question” and is listed in corporate records as being an executive with them in a restaurant business. (The Hill, February 17, 2009)

Whereas, Roll Call also reported that it had located tens of thousands of dollars of donations linked to the firm that “are improperly reported in the FEC database.” (Roll Call, February 20, 2009)

Whereas, CQ Today recently reported that Mr. Magliocchetti and “nine of his relatives—two children, his daughter-in-law, his current wife, his ex-wife and his ex-wife’s parents, sister, and brother-in-law” provided “\$1.5 million in political contributions from 2000 through 2008 as the lobbyist’s now-embattled firm helped clients win billions of dollars in federal contracts,” with the majority of the family members contributing in excess of \$100,000 in that timeframe. (CQ Today, March 12, 2009)

Whereas, CQ Today also noted that “all but one of the family members were recorded as working for [the firm] in campaign finance reports, and most also were listed as having other employers” and with other occupations such as assistant ticket director for a Class A baseball team, a school teacher, a police sergeant, and a homemaker. (CQ Today, March 12, 2009)

Whereas, in addition to reports of allegations related to reimbursing employees and the concerning patterns of contributions of business associates and board members, ABC News reported that some former clients of the firm “have complained of being pressured by [the firm’s] lobbyists to write checks for politicians they either had no interest in or openly opposed.” (ABC News The Blotter, March 4, 2009)

Whereas, Roll Call has taken note of the timing of contributions from employees of Mr. Magliocchetti’s firm and its clients when it reported that they “have provided thousands of dollars worth of campaign contributions to key Members in close proximity to legislative activity, such as the deadline for earmark request letters or passage of a spending bill.” (Roll Call, March 3, 2009)

Whereas, reports of the firm’s success in obtaining earmarks for their clients are widespread, with CQ Today reporting that “104 House members got earmarks for projects sought by [clients of the firm] in the 2008 defense appropriations bills,” and that 87 percent of this bipartisan group of Members received campaign contributions from the raided firm. (CQ Today, February 19, 2009)

Whereas, clients of Mr. Magliocchetti’s firm received at least three hundred million dollars worth of earmarks in fiscal year 2009 appropriations legislation, including several that were approved even after news of the FBI raid and Justice Department investigation into the firm and its founder was well known.

Whereas, the Chicago Tribune noted that the ties between a senior House Appropriations Committee member and Mr. Magliocchetti’s firm “reflect a culture of pay-to-play in Washington,” and ABC News indicated that “the firm’s operations—millions out to lawmakers, hundreds of millions back in earmarks for clients—have made it, for many observers, the poster child for tacit

“pay-to-play” politics . . .” (Chicago Tribune, March 2, 2009; ABC News The Blotter, March 4, 2009)

Whereas Roll Call has reported that “a handful of lawmakers had already begun to refund donations tied to” the firm “at the center of a federal probe . . .” (Roll Call, February 23, 2009)

Whereas, the persistent media attention focused on questions about the nature and timing of campaign contributions related to Mr. Magliocchetti, as well as reports of the Justice Department conducting research on earmarks and campaign contributions, raise concern about the integrity of Congressional proceedings and the dignity of the institution.

Whereas, the fact that cases are being investigated by the Justice Department does not preclude the Committee on Standards from taking investigative steps: Now, therefore, be it

Resolved, That

(a) The Committee on Standards of Official Conduct, or a subcommittee of the committee designated by the committee and its members appointed by the chairman and ranking member, shall immediately begin an investigation into the relationship between the source and timing of past campaign contributions to Members of the House related to the founder of the raided firm and earmark requests made by Members of the House on behalf of clients of the raided firm.

(b) The Committee on Standards of Official Conduct shall submit a report of its findings to the House of Representatives within 2 months after the date of adoption of the resolution.

The SPEAKER pro tempore, Mr. PASTOR of Arizona, ruled that the resolution submitted did present a question of the privileges of the House under rule IX.

Mr. BECERRA moved to lay the resolution on the table.

The question being put, *viva voce*, Will the House lay the resolution on the table?

The SPEAKER pro tempore, Mr. PASTOR of Arizona, announced that the yeas had it.

Mr. FLAKE objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 6, rule XX, and the call was taken by electronic device.

It was decided in the affirmative	}	Yeas 226 Nays 180 Answered present 15
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¶40.6 [Roll No. 141]

So, the motion to lay the resolution on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

(¶43.17)

A RESOLUTION ALLEGING A RELATIONSHIP BETWEEN CAMPAIGN CONTRIBUTIONS AND REQUESTS BY MEMBERS FOR APPROPRIATIONS, AND DIRECTING THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO INVESTIGATE SUCH RELATIONSHIP,

QUESTIONS OF ORDER

TIONSHIP, PRESENTS A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

THE HOUSE LAID ON THE TABLE A RESOLUTION CONSIDERED AS A QUESTION OF THE PRIVILEGES OF THE HOUSE.

On March 25, 2009, Mr. FLAKE, rose to a question of the privileges of the House and submitted the following resolution (H. Res. 286):

Whereas, The Hill reported that a prominent lobbying firm specializing in obtaining defense earmarks for its clients, the subject of a "federal investigation into potentially corrupt political contributions," has given \$3.4 million in political donations to no less than 284 Members of Congress.

Whereas, multiple press reports have noted questions related to campaign contributions made by or on behalf of the firm; including questions related to "straw man" contributions, the reimbursement of employees for political giving, pressure on clients to give, a suspicious pattern of giving, and the timing of donations relative to legislative activity.

Whereas, Roll Call has taken note of the timing of contributions from employees of the firm and its clients when it reported that they "have provided thousands of dollars worth of campaign contributions to key Members in close proximity to legislative activity, such as the deadline for earmark request letters or passage of a spending bill."

Whereas, CQ Today specifically noted a Member getting "\$25,000 in campaign contribution money from [the founder of the firm] and his relatives right after his subcommittee approved its spending bill in 2005."

Whereas, the Associated Press also noted that Members received campaign contributions from employees of the firm "around the time they requested" earmarks for companies represented by the firm.

Whereas, clients of the firm received at least \$300 million worth of earmarks in fiscal year 2009 appropriations legislation, including several that were approved even after news of the FBI raid of the firm's offices and Justice Department investigation into the firm was well known.

Whereas, the persistent media attention focused on questions about the nature and timing of campaign contributions related to the firm, as well as reports of the Justice Department conducting research on earmarks and campaign contributions, raise concern about the integrity of Congressional proceedings and the dignity of this institution.

Now, therefore, be it *Resolved*, That

(a) the Committee on Standards of Official Conduct, or a subcommittee of the committee designated by the committee and its members appointed by the chairman and ranking member, shall immediately begin an investigation into the relationship between the source and timing of past contributions to Members of the House related to the raided firm and earmark requests made by Members of the House on behalf of clients of the raided firm.

(b) The Committee on Standards of Official Conduct shall submit a report of its findings to the House of Representatives within 2 months after the date of adoption of this resolution.

The SPEAKER pro tempore, Mr. ROSS, ruled that the resolution submitted did present a question of the privileges of the House under rule IX.

Mr. George MILLER of California, moved to lay the resolution on the table.

The question being put, viva voce,
Will the House lay the resolution on the table?

The SPEAKER pro tempore, Mr. ROSS, announced that the yeas had it.

Mr. FLAKE demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

It was decided in the affirmative	{	Yeas	223
		Nays	182
		Answered present	16

¶43.18 [Roll No. 155]

So, the motion to lay the resolution on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

(¶45.27)

A RESOLUTION ALLEGING A RELATIONSHIP BETWEEN CAMPAIGN CONTRIBUTIONS AND REQUESTS BY MEMBERS FOR APPROPRIATIONS, AND DIRECTING THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO INVESTIGATE SUCH RELATIONSHIP, PRESENTS A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

THE HOUSE LAID ON THE TABLE A RESOLUTION CONSIDERED AS A QUESTION OF THE PRIVILEGES OF THE HOUSE.

On March 30, 2009, Mr. FLAKE, rose to a question of the privileges of the House and submitted the following resolution (H. Res. 295):

Whereas, The Hill reported that a prominent lobbying firm specializing in obtaining defense earmarks for its clients, the subject of a "federal investigation into potentially corrupt political contributions," has given \$3.4 million in political donations to no less than 284 members of Congress.

Whereas, multiple press reports have noted questions related to campaign contributions made by or on behalf of the firm; including questions related to "straw man" contributions, the reimbursement of employees for political giving, pressure on clients to give, a suspicious pattern of giving, and the timing of donations relative to legislative activity.

Whereas, Roll Call has taken note of the timing of contributions from employees of the firm and its clients when it reported that they "have provided thousands of dollars worth of campaign contributions to key Members in close proximity to legislative activity, such as the deadline for earmark request letters or passage of a spending bill."

Whereas, CQ Today specifically noted a Member getting "\$25,000 in campaign contribution money from [the founder of the firm] and his relatives right after his subcommittee approved its spending bill in 2005."

Whereas, the Associated Press noted that Members received campaign contributions from employees of the firm "around the time they requested" earmarks for companies represented by the firm.

Whereas, the Associated Press highlighted the "huge amounts of political donations" from the firm and its clients to select members and noted that "those political donations have followed a distinct pattern: The giving is especially heavy in March, which is prime time for submitting written earmark requests."

Whereas, clients of the firm received at least three hundred million dollars worth of earmarks in fiscal year 2009 appropriations legislation, including several that were approved even after news of the FBI raid of the firm's offices and Justice Department investigation into the firm was well known.

Whereas, the Associated Press reported that "the FBI says the investigation is continuing, highlighting the close ties between special-interest spending provisions known as earmarks and the raising of campaign cash."

Whereas, the persistent media attention focused on questions about the nature and timing of campaign contributions related to the firm, as well as reports of the Justice Department conducting research on earmarks and campaign contributions, raise concern about the integrity of Congressional proceedings and the dignity of the institution.

Now, therefore, be it: *Resolved*, that (a) the Committee on Standards of Official Conduct, or a subcommittee of the committee designated by the committee and its members appointed by the chairman and ranking member, shall immediately begin an investigation into the relationship between the source and timing of past campaign contributions to Members of the House related to the raided firm and earmark requests made by Members of the House on behalf of clients of the raided firm.

(b) The Committee on Standards of Official Conduct shall submit a report of its findings to the House of Representatives within 2 months after the date of adoption of the resolution.

The SPEAKER pro tempore, Mr. ROSS, ruled that the resolution submitted did present a question of the privileges of the House under rule IX.

Mr. George MILLER of California, moved to lay the resolution on the table.

The question being put, viva voce,
Will the House lay the resolution on the table?

The SPEAKER pro tempore, Mr. ROSS, announced that the yeas had it.

Mr. FLAKE objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,
The roll was called under clause 6, rule XX, and the call was taken by electronic device.

When there appeared	{	Yeas	210
		Nays	173
		Answered present	13

¶45.28 [Roll No. 163]

So, the motion to lay the resolution on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

(¶47.8)

A RESOLUTION ALLEGING A RELATIONSHIP BETWEEN CAMPAIGN CONTRIBUTIONS AND REQUESTS BY MEMBERS FOR APPROPRIATIONS, AND DIRECTING THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO INVESTIGATE SUCH RELATIONSHIP, PRESENTS A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

QUESTIONS OF ORDER

THE HOUSE LAID ON THE TABLE A RESOLUTION CONSIDERED AS A QUESTION OF THE PRIVILEGES OF THE HOUSE.

On April 1, 2009, Mr. FLAKE, rose to a question of the privileges of the House and submitted the following resolution (H. Res. 312):

Whereas, The Hill reported that a prominent lobbying firm, founded by Mr. Paul Magliocchetti and the subject of a "federal investigation into potentially corrupt political contributions," has given \$3.4 million in political donations to no less than 284 members of Congress.

Whereas, the New York Times noted that Mr. Magliocchetti "set up shop at the busy intersection between political fund-raising and taxpayer spending, directing tens of millions of dollars in contributions to lawmakers while steering hundreds of millions of dollars in earmark contracts back to his clients."

Whereas, a guest columnist recently highlighted in Roll Call that "... what [the firm's] example reveals most clearly is the potentially corrupting link between campaign contributions and earmarks. Even the most ardent earmarkers should want to avoid the appearance of such a pay-to-play system."

Whereas, multiple press reports have noted questions related to campaign contributions made by or on behalf of the firm; including questions related to "straw man" contributions, the reimbursement of employees for political giving, pressure on clients to give, a suspicious pattern of giving, and the timing of donations relative to legislative activity.

Whereas, Roll Call has taken note of the timing of contributions from employees of the firm and its clients when it reported that they "have provided thousands of dollars worth of campaign contributions to key Members in close proximity to legislative activity, such as the deadline for earmark request letters or passage of a spending bill."

Whereas, the Associated Press highlighted the "huge amounts of political donations" from the firm and its clients to select members and noted that "those political donations have followed a distinct pattern: The giving is especially heavy in March, which is prime time for submitting written earmark requests."

Whereas, clients of the firm received at least \$300 million worth of earmarks in fiscal year 2009 appropriations legislation, including several that were approved even after news of the FBI raid of the firm's offices and Justice Department investigation into the firm was well known.

Whereas, the Associated Press reported that "the FBI says the investigation is continuing, highlighting the close ties between special-interest spending provisions known as earmarks and the raising of campaign cash."

Whereas, the persistent media attention focused on questions about the nature and timing of campaign contributions related to the firm, as well as reports of the Justice Department conducting research on earmarks and campaign contributions, raise concern about the integrity of Congressional proceedings and the dignity of the institution.

Now, therefore, be it: *Resolved*, that (a) the Committee on Standards of Official Conduct, or a subcommittee of the committee designated by the committee and its members appointed by the chairman and ranking member, shall immediately begin an investigation into the relationship between the source and timing of past campaign contributions to Members of the House related to the raided firm and earmark requests made by Members of the House on behalf of clients of the raided firm.

(b) The Committee on Standards of Official Conduct shall submit a report of its findings to the House of Representatives within 2 months after the date of adoption of the resolution.

The SPEAKER pro tempore, Mr. SALAZAR, ruled that the resolution submitted did present a question of the privileges of the House under rule IX.

Mr. HALL of New York, moved to lay the resolution on the table.

The question being put, *viva voce*,

Will the House lay the resolution on the table?

The SPEAKER pro tempore, Mr. SALAZAR, announced that the yeas had it.

Mr. FLAKE objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 6, rule XX, and the call was taken by electronic device.

It was decided in the affirmative	}	Yeas	217
		Nays	185
		Answered present	16

¶47.9 [Roll No. 175]

So, the motion to lay the resolution on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE (¶61.26)

A RESOLUTION ALLEGING A RELATIONSHIP BETWEEN CAMPAIGN CONTRIBUTIONS AND REQUESTS BY MEMBERS FOR APPROPRIATIONS, AND DIRECTING THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO INVESTIGATE SUCH RELATIONSHIP, PRESENTS A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

THE HOUSE LAID ON THE TABLE A RESOLUTION CONSIDERED AS A QUESTION OF THE PRIVILEGES OF THE HOUSE.

On May 12, 2009, Mr. FLAKE, rose to a question of the privileges of the House and submitted the following resolution (H. Res. 425):

Whereas, The Hill reported that a prominent lobbying firm, founded by Mr. Paul Magliocchetti and the subject of a "federal investigation into potentially corrupt political contributions," has give \$3.4 million in political donations to no less than 284 members of Congress.

Whereas, the New York Times noted that Mr. Magliocchetti "set up shop at the busy intersection between political fund-raising and taxpayer spending, directing tens of millions of dollars in contributions to lawmakers while steering hundreds of millions of dollars in earmarks back to his clients."

Whereas, a guest columnist recently highlighted in Roll Call that "... what the firm's example reveals most clearly is the potentially corrupting link between campaign contributions and earmarks. Even the most ardent earmarkers should want to avoid the appearance of such a pay-to-play system."

Whereas, multiple press reports have noted questions related to campaign contributions

made by or on behalf of the firm; including questions related to "straw man" contributions, the reimbursement of employees for political giving, pressure on clients to give, a suspicious pattern of giving, and the timing of donations relative to legislative activity.

Whereas, Roll Call has taken note of the timing of contributions from employees, the firm and its clients when it reported that they "have provided thousands of dollars worth of campaign contributions to key Members in close proximity to legislative activity, such as the deadline for earmark request letters and passage of a spending bill."

Whereas, the Associated Press highlighted the "huge amounts of political donations" from the firm and its clients to select members and noted that "those political donations have followed a distinct pattern: The giving is especially heavy in March, which is prime time for submitting written earmark requests."

Whereas, clients of the firm received at least three hundred million dollars worth of earmarks in fiscal year 2009 appropriations legislation, including several that were approved even after news of the FBI raid of the firm's offices and Justice Department investigation into the firm was well known.

Whereas, the Associated Press reported that "the FBI says the investigation is continuing, highlighting the close ties between special-interest spending provisions known as earmarks and the raising of campaign cash."

Whereas, the persistent media attention focused on questions about the nature and timing of campaign contributions related to the firm, as well as reports of the Justice Department conducting research on earmarks and campaign contributions, raise concern about the integrity of congressional proceedings and the dignity of this institution. Now, therefore, be it:

Resolved, that

(a) the Committee on Standards of Official Conduct, or a subcommittee of the committee designated by the committee and its members appointed by the chairman and ranking member, shall immediately begin investigation into the relationship between the source and timing of past campaign contributions to Members of the House related to the raided firm and earmark requests made by Members of the House on behalf of clients of the raided firm.

(b) The Committee on Standards of Official Conduct shall submit a report of its findings to the House of Representatives within 2 months

The SPEAKER pro tempore, Mrs. TAUSCHER, ruled that the resolution submitted did present a question of the privileges of the House under rule IX.

Ms. SLAUGHTER moved to lay the resolution on the table.

The question being put, *viva voce*,

Will the House lay the resolution on the table?

The SPEAKER pro tempore, Mrs. TAUSCHER, announced that the yeas had it.

Mr. FLAKE objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 6, rule XX, and the call was taken by electronic device.

It was decided in the affirmative	}	Yeas	215
		Nays	182
		Answered present	15

¶61.27 [Roll No. 243]

So, the motion to lay the resolution on the table was agreed to.

QUESTIONS OF ORDER

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

(¶68.9)

A RESOLUTION CALLING FOR THE ESTABLISHMENT OF A SELECT SUBCOMMITTEE OF THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE TO "REVIEW AND VERIFY THE ACCURACY" OF STATEMENTS BY THE SPEAKER CONCERNING COMMUNICATIONS TO THE CONGRESS FROM AN ELEMENT OF THE EXECUTIVE BRANCH WOULD INVOLVE AN EVALUATION OF THE COMMUNICATIONS FROM THE RELEVANT EXECUTIVE BRANCH ENTITY AND THEREFORE DOES NOT PRESENT A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

THE HOUSE LAID ON THE TABLE AN APPEAL FROM THE RULING OF THE SPEAKER PRO TEMPORE.

On May 21, 2009, Mr. BISHOP of Utah, rose to a question of the privileges of the House and submitted the following resolution:

Whereas the Honorable Nancy Pelosi, a Representative from California, served from 1997 to 2002 as Ranking Democratic Member of the House Permanent Select Committee on Intelligence;

Whereas Representative Pelosi currently serves as Speaker of the House, a position of considerable power and influence within the Congress;

Whereas title 3 of the United States Code designates the Speaker of the House as third in line of succession to the Presidency;

Whereas Speaker Pelosi has publicly challenged the truthfulness of what she and other congressional leaders were told by Central Intelligence Agency officials about the agency's use of enhanced interrogation techniques on suspected terrorists;

Whereas in an MSNBC interview on February 25, 2009, Speaker Pelosi stated, "I can say flat-out, they never told us that these enhanced interrogation techniques were being used";

Whereas Speaker Pelosi's public statements allege a sustained pattern of deception by government intelligence officers charged by law with informing Congress about the agency's activities;

Whereas when asked at a press conference on May 15, 2009 widely reported by the news media, "Madam Speaker, just to be clear, you're accusing the CIA of lying to you in September?" Speaker Pelosi stated, "Yes";

Whereas during the same press conference the Speaker subsequently stated, "So yes, I'm saying they are misleading, the CIA was misleading the Congress" and further, "they misled us all the time" and "they misrepresented every step of the way";

Whereas in a memorandum to CIA employees released publicly on May 15, 2009, Leon Panetta, the CIA Director, stated, "It is not our policy or practice to mislead Congress. That is against our laws and our values. As the Agency indicated previously in response to Congressional inquiries, our contemporaneous records from September 2002 indicate that CIA officers briefed truthfully on the interrogation of Abu Zubaydah, describing the enhanced interrogation techniques that had been employed";

Whereas national and international media reports on this controversy have damaged

the reputation of the House by raising questions about whether the effectiveness of congressional oversight may have been undermined through false or misleading statements by intelligence officials;

Whereas in order to safeguard the reputation of the House it is imperative to reconcile as soon as possible the aforementioned contradictory statements by Speaker Pelosi and CIA Director Panetta: Now, therefore, be it

Resolved, That—

(1) a Select Subcommittee of the Permanent Select Committee on Intelligence shall be established to review and verify the accuracy of the Speaker's aforementioned public statements;

(2) the Select Subcommittee shall be comprised of four members of the full committee, two appointed by the chairman of the committee and two by its ranking minority member;

(3) the subcommittee shall have the same powers to obtain testimony and documents pursuant to subpoena authorized under clause 2(m) of Rule XI of the Rules of the House; and,

(4) the Select Subcommittee report its findings and recommendations to the House not later than sixty calendar days after adoption of this resolution.

The SPEAKER pro tempore, Mr. CLAY, announced the following question of the privileges of the House and said:

"The Chair is prepared to rule on the privilege or not of the resolution.

"Would the gentleman from Utah like to offer any argument on that question?

"The Chair recognizes the gentleman from Utah."

Mr. BISHOP of Utah, was recognized to speak to the question of the privileges of the House and said:

"It is simply an issue that if, indeed, there has been a pattern of misconceptions, misinformation that has been given to the House of Representatives by an agency of government, that is an untenable and improper situation to have; and it is imperative that we try to find the truth of that matter, to make sure that if it has happened, it never happens again.

"It seems obvious that a bipartisan committee, two Republicans and two Democrats, who are there to ascertain the veracity of those particular claims, that we have been systematically denied the truth or systematically been told inaccuracies, should be identified. That's the point of this particular resolution. It has nothing else to do except to establish a process whereby the veracity of this particular issue can be identified, and the House can know if, indeed, agencies have specifically had a pattern of misleading this House in information that is required."

The SPEAKER pro tempore, Mr. CLAY, ruled that the resolution submitted did not present a question of the privileges of the House under rule IX, and said:

"The resolution proposes to direct a select subcommittee of the Permanent Select Committee on Intelligence "to review and verify the accuracy of" certain public statements of the Speaker concerning communications to the Congress from an element of the executive branch.

"Such a review necessarily would include an evaluation not only of the statements of the Speaker but also of the executive communications to which those statements related. Thus, the review necessarily would involve an evaluation of the oversight regime that formed the context for those communications as well.

"On these premises the Chair finds that the resolution is not confined to questions of the privileges of the House. The Chair therefore holds that the resolution is not privileged under rule IX but, rather, may be submitted through the hopper."

Mr. BISHOP of Utah, appealed the ruling of the Chair.

The question being stated,

Will the decision of the Chair stand as the judgment of the House?

Mr. HOYER moved to lay the appeal on the table.

The question being put, viva voce,

Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER pro tempore, Mr. CLAY, announced that the yeas had it.

Mr. BISHOP of Utah, demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 252
affirmative } Nays 172

¶68.10

[Roll No. 283]

So, the motion to lay the appeal on the table was agreed to was, by unanimous consent, laid on the table.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

(¶70.19)

A RESOLUTION ALLEGING AN IMPROPER RELATIONSHIP BETWEEN MEMBERS OF THE HOUSE AND A LOBBYING ORGANIZATION, REFERENCING AN INVESTIGATION BY THE DEPARTMENT OF JUSTICE OF SUCH RELATIONSHIP, AND DIRECTING THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO REPORT ANY ACTION IT HAS TAKEN WITH REGARD TO MISCONDUCT ON THE PART OF MEMBERS AND STAFF IN CONNECTION WITH SUCH LOBBYING ORGANIZATION PRESENTS A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

THE HOUSE REFERRED A RESOLUTION CONSIDERED AS A QUESTION OF THE PRIVILEGES OF THE HOUSE TO THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT.

On June 3, 2009, Mr. HOYER rose to a question of the privileges of the House and submitted the following resolution:

Whereas there have been allegations in the media concerning the improper involvement of Members of the House of Representatives in certain activities of the PMA Group; and

QUESTIONS OF ORDER

Whereas according to these media accounts and the statements of those involved, the Department of Justice is conducting an investigation into such activities of the PMA Group; Now, therefore, be it

Resolved, That not later than 45 days after the adoption of this resolution, the Committee on Standards of Official Conduct shall report to the House of Representatives on the actions the Committee has taken, if any, concerning any misconduct of Members and employees of the House in connection with such activities of the PMA Group.

The SPEAKER pro tempore, Ms. BALDWIN, ruled that the resolution submitted did present a question of the privileges of the House under rule IX.

Mr. MCGOVERN moved that the resolution be referred to the Committee on Standards of Official Conduct and moved the previous question.

The SPEAKER pro tempore, Ms. BALDWIN, by unanimous consent, the previous question is ordered.

Mr. PRICE of Georgia, was recognized and said:

“I object”.

The question being put, *viva voce*,

Will the House now order the previous question?

The SPEAKER pro tempore, Ms. BALDWIN, announced that the yeas had it.

So the previous question was ordered.

The question being put, *viva voce*,

Will the House agree to said motion?

The SPEAKER pro tempore, Ms. BALDWIN, announced that the yeas had it.

Mr. BOEHNER demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the affirmative	Y	Yeas	270
		Nays	134
		Answered present	17

¶70.20 [Roll No. 300]

So, the motion was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

(¶78.17)

A RESOLUTION CALLING FOR THE ESTABLISHMENT OF A SELECT SUBCOMMITTEE OF THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE TO “REVIEW AND VERIFY THE ACCURACY” OF STATEMENTS BY THE SPEAKER CONCERNING COMMUNICATIONS TO THE CONGRESS FROM AN ELEMENT OF THE EXECUTIVE BRANCH WOULD INVOLVE AN EVALUATION OF THE COMMUNICATIONS FROM THE RELEVANT EXECUTIVE BRANCH ENTITY AND THEREFORE DOES NOT PRESENT A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

THE HOUSE LAID ON THE TABLE AN APPEAL FROM THE RULING OF THE SPEAKER PRO TEMPORE.

On June 16, 2009, Mr. BISHOP of Utah, pursuant to rule IX, rose to a question of the privileges of the House and submitted the following resolution:

Whereas the Honorable Nancy Pelosi, a Representative from California, served from 1997 to 2002 as Ranking Democratic Member of the House Permanent Select Committee on Intelligence;

Whereas Representative Pelosi currently serves as Speaker of the House, a position of considerable power and influence within the Congress;

Whereas title 3 of the United States Code designates the Speaker of the House as third in line of succession to the Presidency;

Whereas Speaker Pelosi has publicly challenged the truthfulness of what she and other congressional leaders were told by Central Intelligence Agency officials about the agency’s use of enhanced interrogation techniques on suspected terrorists;

Whereas in an MSNBC interview on February 25, 2009, Speaker Pelosi stated, “I can say flat-out, they never told us that these enhanced interrogation techniques were being used”;

Whereas, Speaker Pelosi’s public statements allege a sustained pattern of deception by government intelligence officers charged by law with informing Congress about the agency’s activities;

Whereas when asked at a press conference on May 15, 2009 widely reported by the news media, “Madame Speaker, just to be clear, you’re accusing the CIA of lying to you in September?” Speaker Pelosi stated, “Yes”;

Whereas during the same press conference the Speaker subsequently stated, “So yes, I’m saying they are misleading, the CIA was misleading the Congress” and further, “they mislead us all the time” and “they misrepresented every step of the way”;

Whereas in a memorandum to CIA employees released publicly on May 15, 2009, Leon Panetta, the CIA Director, stated, “It is not our policy or practice to mislead Congress. That is against our laws and our values. As the Agency indicated previously in response to Congressional inquiries, our contemporaneous records from September 2002 indicate that CIA officers briefed truthfully on the interrogation of Abu Zubaydah, describing the enhanced interrogation techniques that had been employed”;

Whereas when asked in a press conference held June 4, 2009, “Madame Speaker, are you still receiving intelligence briefings?” Speaker Pelosi responded by saying, “Yes, I am; yes, I am.”; Whereas a June 5, 2009 article on Human Events.com entitled, “Pelosi Still Receives CIA Briefings, But Won’t Say If They’re Truthful” stated, “She refused to answer when asked whether or not she believes intelligence professionals are still lying to her.”;

Whereas national and international media reports on this controversy have damaged the reputation of the House by raising questions about whether the effectiveness of congressional oversight may have been undermined through false or misleading statements by intelligence officials; and

Whereas in order to safeguard the reputation of the House it is imperative to reconcile as soon as possible the aforementioned contradictory statements by Speaker Pelosi and CIA Director Panetta: Now, therefore, be it

Resolved, That—

(1) a Select Subcommittee of the Permanent Select Committee on Intelligence shall be established to review and verify the accuracy of the Speaker’s aforementioned public statements;

(2) the Select Subcommittee shall be comprised of four members of the full committee, two appointed by the chairman of

the committee and two by its ranking minority member;

(3) The subcommittee shall have the same powers to obtain testimony and documents pursuant to subpoena authorized under clause 2(m) of Rule XI of the Rules of the House; and,

(4) the Select Subcommittee report its findings and recommendations to the House not later than sixty calendar days after adoption of this resolution.

The SPEAKER pro tempore, Mr. HOLDEN, announced the following question of the privileges of the House and said:

“Does the gentleman from Utah wish to present argument on why the resolution is privileged for immediate consideration?”

Mr. BISHOP of Utah, was recognized to speak to the question of the privileges of the House and said:

“Yes, I do. Thank you, Mr. Speaker.

“This is very similar—it is not exactly the same, but it is similar to a resolution we presented a few weeks ago. It is presented again for one simple reason. The reason that this is before here is still that there is no cloture on this particular issue.

“In ‘A Man for All Seasons,’ Sir Thomas More may have used silence as his legal argument that silence denotes consent; but in a political setting as we are here, silence is not a solution. In an era in which perception is the same thing as reality, silence does not solve the problem, and indeed, harms are still there.

“If an agency of government intentionally misleads Congress—and the CIA has denied they did that. If they intentionally mislead Congress or a Member, an important or a significant Member of Congress, it creates a problem for the integrity of the House as a whole.

“If the data we are to receive is in question, then the solutions and the arguments we derive are equally in question, and that becomes an untenable decision. All of our decisions, therefore, become suspect. There is only one solution to this, and it is the same solution that we have said before:

“If we don’t want this issue to simply be subject to political maneuverings, establish a bipartisan committee—two Republicans, two Democrats. Make that committee a subset of the Permanent Select Committee on Intelligence, so they understand the verbiage, so they understand the questions, so they don’t have to have a lot of time to be brought up to speed.

“If you have that kind of committee, their report will, by the very nature of the makeup of that committee, not be subject to political spin, and we may be able to move on. That’s the important part. It is the integrity of the House that is in question here, and that needs to be answered so decisions of this House will be considered without any other kind of question or implication.

“Now, as we are starting the appropriations process, it becomes an ideal time in which any kind of solution we may wish to impose on this particular situation should be before the House and should be done.

QUESTIONS OF ORDER

POINT OF ORDER

(¶80.78)

"Mr. Speaker, I do this as a former speaker in Utah where several times you had to stand up to defend the integrity of the institution. This is about the integrity of the institution, to make sure we were not intentionally misled by an agency of government."

The SPEAKER pro tempore, Mr. HOLDEN, ruled that the resolution submitted did not present a question of the privileges of the House under rule IX, and said:

"The resolution proposes to direct a select subcommittee of the Permanent Select Committee on Intelligence to review and verify the accuracy of certain public statements of the Speaker concerning communications to the Congress from an element of the executive branch.

"Such a review necessarily would include an evaluation not only of the statements of the Speaker but also of the executive communications to which those statements related. Thus, the review necessarily would involve an evaluation of the oversight regime that formed the context for those communications as well. In reviewing and verifying the accuracy of 'the aforementioned public statements,' the select subcommittee would be assessing not only the probity of the Speaker's actions but also the probity of the actions of executive branch officials.

"On these premises, the Chair finds that the instant resolution is not materially different from House Resolution 470, which was held on May 21, 2009, not to present a question of privilege. The Chair therefore holds that the resolution is not privileged under rule IX. Instead, as was the case with House Resolution 470, the instant resolution may be submitted through the hopper."

Mr. BISHOP of Utah, appealed the ruling of the Chair.

The question being stated,

Will the decision of the Chair stand as the judgment of the House?

Mr. HASTINGS of Florida moved to lay the appeal on the table.

The question being put, viva voce,

Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER pro tempore, Mr. HOLDEN, announced that the yeas had it.

Mr. BISHOP of Utah, demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 247
affirmative { Nays 171

¶78.18 [Roll No. 342]

So the motion to lay the appeal on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

BECAUSE CLAUSE 2(C) OF RULE XXI PROHIBITS LIMITATION AMENDMENTS DURING CONSIDERATION OF A GENERAL APPROPRIATION BILL EXCEPT AS PERMITTED AT THE END OF READING BY REJECTION OR FAILURE TO OFFER THE MOTION TO RISE AND REPORT ACCORDED PREFERENCE UNDER CLAUSE 2(D) OF RULE XXI, IT IS NOT IN ORDER FOR A MOTION TO RECOMMIT SUCH A BILL TO PROPOSE A LIMITATION NOT CONSIDERED IN THE COMMITTEE OF THE WHOLE.

THE HOUSE LAID ON THE TABLE AN APPEAL FROM THE RULING OF THE SPEAKER PRO TEMPORE.

On June 18, 2009, Mr. OBEY made a point of order against consideration of the motion to recommit and said:

"Mr. Speaker, I make a point of order against the motion to recommit with instructions. The gentleman's motion to instruct includes a limitation not specifically contained or authorized in existing law and not considered in the Committee of the Whole pursuant to clause 2(d) of rule XXI. I ask for a ruling of the Chair."

Mr. ROGERS of Michigan, was recognized to speak to the point of order and said:

"Mr. Speaker, the motion to recommit contains language that I placed into the June 15, 2009, CONGRESSIONAL RECORD to prohibit any funds in this bill from being used by the Department of Justice to provide Miranda Rights to detainees in the custody of the United States military in Afghanistan.

"House Resolution 544, the original rule for consideration of this bill, limited amendments to those received for printing in the portion of the CONGRESSIONAL RECORD of June 15, 2009, or earlier, designated for that purpose in clause 8 of rule XVIII. Therefore, under the terms of House Resolution 544, the original rule adopted for consideration of this bill, my amendment was in order to be considered during the amendment process in the Committee of the Whole.

"Mr. Speaker, it is my understanding that clause 2 of rule XXI of the rules of the House prohibits a limitation from being offered on an appropriations bill if it contains legislation. Since my amendment did not constitute legislating on an appropriations bill, my amendment would have been in order as a valid amendment during consideration of the Committee of the Whole.

"However, the highly restrictive second rule that we operated under for consideration of amendments in the Committee of the Whole prohibited me from offering my amendment, an amendment that would have been in order under the rules of the House, despite the fact that I testified at the Rules Committee asking that I be allowed to offer it. Had my amendment been allowed to be offered during this consideration of amendments to this bill, this motion to recommit would

not be subject to any parliamentary challenge.

"Therefore, I ask the Chair to find this motion to recommit in order so that Members can consider this very important amendment to prohibit the extension of Miranda Rights to expected terrorists, non-U.S. citizens, captured on the battlefield in Afghanistan."

The SPEAKER pro tempore, Mr. HOLDEN, sustained the point of order, and said:

"The gentleman from Wisconsin makes the point of order that the motion to recommit violates clause 2(c) of rule XXI. Clause 2(c) operates as a general prohibition against amendments proposing limitations not specifically contained or authorized in existing law.

"A general appropriation bill remains 'under consideration' even after the Committee of the Whole has risen and reported the bill back to the House. As such, a motion to recommit a general appropriation bill remains subject to clause 2(c) of rule XXI.

"Because it is not in order to propose as instructions in a motion to recommit amendatory language that would not be in order if offered as a direct amendment, a motion to recommit that proposes a limitation amendment is not in order unless such limitation amendment was actually offered and considered in the Committee of the Whole. This proposition is elucidated in rulings of August 1, 1989, and August 3, 1989.

"The Chair finds the amendment proposed in the motion to recommit violates clause 2(c) of rule XXI."

Mr. ROGERS of Michigan, appealed the ruling of the Chair.

The question being stated,

Will the decision of the Chair stand as the judgment of the House?

Mr. OBEY moved to lay the appeal on the table.

The question being put, viva voce,

Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER pro tempore, Mr. HOLDEN, announced that the yeas had it.

Mr. ROGERS of Michigan, demanded a recorded vote on agreeing to said motion, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 246
affirmative { Nays 171

¶80.79 [Roll No. 402]

So the motion to lay the appeal on the table was agreed to.

Mr. ROGERS of Michigan, moved to reconsider the vote on the motion to lay the appeal on the table.

The question being put, viva voce,

Will the House agree to said motion? The SPEAKER pro tempore, Mr. HOLDEN, announced that the nays had it.

Mr. ROGERS of Michigan, demanded a recorded vote on agreeing to said mo-

QUESTIONS OF ORDER

tion, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 168
negative } Nays 243

¶80.80 [Roll No. 403]

So the motion was not agreed to.

A motion to reconsider the vote whereby said motion was not agreed to was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

¶81.18

A RESOLUTION OF IMPEACHMENT IS PRIVILEGED UNDER THE CONSTITUTION AND UNDER RULE IX AS A QUESTION OF THE PRIVILEGES OF THE HOUSE.

THE SOLE POWER OF IMPEACHMENT IS CONFERRED UPON THE HOUSE BY THE CONSTITUTION. A RESOLUTION REPORTED FROM THE COMMITTEE ON THE JUDICIARY DIRECTLY PROPOSING THE IMPEACHMENT OF FEDERAL DISTRICT JUDGE SAMUEL B. KENT FOR HIGH CRIMES AND MISDEMEANORS SPECIFIED IN FOUR ARTICLES OF IMPEACHMENT WAS CALLED UP AS A QUESTION OF THE PRIVILEGES OF THE HOUSE AND ADOPTED.

On June 19, 2009, Mr. CONYERS, by the direction of the Committee on the Judiciary, rose to a question of the privileges of the House and called up the following privileged resolution (H. Res. 520):

Resolved, That Samuel B. Kent, a judge of the United States District Court for the Southern District of Texas, is impeached for high crimes and misdemeanors, and that the following articles of impeachment be exhibited to the Senate:

Articles of impeachment exhibited by the House of Representatives of the United States of America in the name of itself and all of the people of the United States of America, against Samuel B. Kent, a judge of the United States District Court for the Southern District of Texas, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

ARTICLE I

Incident to his position as a United States district court judge, Samuel B. Kent has engaged in conduct with respect to employees associated with the court that is incompatible with the trust and confidence placed in him as a judge, as follows:

(1) Judge Kent is a United States District Judge in the Southern District of Texas. From 1990 to 2008, he was assigned to the Galveston Division of the Southern District, and his chambers and courtroom were located in the United States Post Office and Courthouse in Galveston, Texas.

(2) Cathy McBroom was an employee of the Office of the Clerk of Court for the Southern District of Texas, and served as a Deputy Clerk in the Galveston Division assigned to Judge Kent's courtroom.

(3) On one or more occasions between 2003 and 2007, Judge Kent sexually assaulted Cathy McBroom, by touching her private areas directly and through her clothing against her will and by attempting to cause her to engage in a sexual act with him.

Wherefore, Judge Samuel B. Kent is guilty of high crimes and misdemeanors and should be removed from office.

ARTICLE II

Incident to his position as a United States district court judge, Samuel B. Kent has engaged in conduct with respect to employees associated with the court that is incompatible with the trust and confidence placed in him as a judge, as follows:

(1) Judge Kent is a United States District Judge in the Southern District of Texas. From 1990 to 2008, he was assigned to the Galveston Division of the Southern District, and his chambers and courtroom were located in the United States Post Office and Courthouse in Galveston, Texas.

(2) Donna Wilkerson was an employee of the United States District Court for the Southern District of Texas.

(3) On one or more occasions between 2001 and 2007, Judge Kent sexually assaulted Donna Wilkerson, by touching her in her private areas against her will and by attempting to cause her to engage in a sexual act with him.

Wherefore, Judge Samuel B. Kent is guilty of high crimes and misdemeanors and should be removed from office.

ARTICLE III

Samuel B. Kent corruptly obstructed, influenced, or impeded an official proceeding as follows:

(1) On or about May 21, 2007, Cathy McBroom filed a judicial misconduct complaint with the United States Court of Appeals for the Fifth Circuit. In response, the Fifth Circuit appointed a Special Investigative Committee (hereinafter in this article referred to as "the Committee") to investigate Cathy McBroom's complaint.

(2) On or about June 8, 2007, at Judge Kent's request and upon notice from the Committee, Judge Kent appeared before the Committee.

(3) As part of its investigation, the Committee sought to learn from Judge Kent and others whether he had engaged in unwanted sexual contact with Cathy McBroom and individuals other than Cathy McBroom.

(4) On or about June 8, 2007, Judge Kent made false statements to the Committee regarding his unwanted sexual contact with Donna Wilkerson as follows:

(A) Judge Kent falsely stated to the Committee that the extent of his unwanted sexual contact with Donna Wilkerson was one kiss, when in fact and as he knew he had engaged in repeated sexual contact with Donna Wilkerson without her permission.

(B) Judge Kent falsely stated to the Committee that when told by Donna Wilkerson his advances were unwelcome no further contact occurred, when in fact and as he knew, Judge Kent continued such advances even after she asked him to stop.

(5) Judge Kent was indicted and pled guilty and was sentenced to imprisonment for the felony of obstruction of justice in violation of section 1512(c)(2) of title 18, United States Code, on the basis of false statements made to the Committee. The sentencing judge described his conduct as "a stain on the justice system itself".

Wherefore, Judge Samuel B. Kent is guilty of high crimes and misdemeanors and should be removed from office.

ARTICLE IV

Judge Samuel B. Kent made material false and misleading statements about the nature and extent of his nonconsensual sexual contact with Cathy McBroom and Donna Wilkerson to agents of the Federal Bureau of Investigation on or about November 30, 2007, and to agents of the Federal Bureau of Investigation and representatives of the Department of Justice on or about August 11, 2008.

Wherefore, Judge Samuel B. Kent is guilty of high crimes and misdemeanors and should be removed from office.

Pending consideration of said resolution,

¶81.19 CALL OF THE HOUSE

The SPEAKER pro tempore, Mr. JACKSON of Illinois, recognized Mr. SENSENBRENNER to move a call of the House.

On motion of Mr. SENSENBRENNER, by unanimous consent, a call of the House was ordered.

The call was taken by electronic device, and the following-named Members responded—

¶81.20 [Roll No. 414]

The SPEAKER pro tempore. 395 Members have recorded their presence. A quorum is present.

Further proceedings under the call were dispensed with.

When said resolution was considered.

After debate, Mr. SENSENBRENNER demanded that the question be divided on each article of impeachment contained in the resolution.

The SPEAKER pro tempore, Mr. JACKSON of Illinois, announced that the question was divisible and would be divided among the four articles of impeachment.

After further debate, The question being put, viva voce,

Will the House agree to the first article of impeachment?

The Speaker pro tempore, Mr. JACKSON of Illinois, announced that the ayes had it.

Mr. SENSENBRENNER demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 389
affirmative } Nays 0

¶81.21 [Roll No. 415]

So, the first article of impeachment was agreed to.

A motion to reconsider the vote whereby said Article I was agreed to was, by unanimous consent, laid on the table.

The question being put, viva voce,

Will the House agree to the second article of impeachment?

The SPEAKER pro tempore, Mr. JACKSON of Illinois, announced that the yeas had it.

Mr. SENSENBRENNER demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 385
affirmative } Nays 0

¶81.22 [Roll No. 416]

So, the second article of impeachment was agreed to.

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A motion to reconsider the vote whereby said Article II was agreed to was, by unanimous consent, laid on the table.

The question being put, viva voce, Will the House agree to the third article of impeachment?

The SPEAKER pro tempore, Mr. JACKSON of Illinois, announced that the yeas had it.

Mr. SENSENBRENNER demanded a recorded vote on agreeing to said third article of impeachment, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the	{	Yeas	381
affirmative	}	Nays	0

¶81.23 [Roll No. 417]

So, the third article of impeachment was agreed to.

A motion to reconsider the vote whereby said Article III was agreed to was, by unanimous consent, laid on the table.

The question being put, viva voce, Will the House agree to the fourth article of impeachment?

The SPEAKER pro tempore, Mr. JACKSON of Illinois, announced that the yeas had it.

Mr. SENSENBRENNER demanded a recorded vote on agreeing to said fourth article of impeachment, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the	{	Yeas	372
affirmative	}	Nays	0
		Answered present	1

¶81.24 [Roll No. 418]

So, the fourth article of impeachment was agreed to.

A motion to reconsider the vote whereby Article IV was agreed to was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

(¶84.24)

A RESOLUTION ALLEGING THAT EXCESSIVE SPENDING BY CONGRESS AND A LACK OF A DELIBERATIVE AMENDATORY PROCESS IN THE HOUSE HAD BROUGHT DISCREDIT ON THE HOUSE, EXHORTING THE HOUSE TO ADOPT FISCAL RESTRAINT AND TO REFRAIN FROM ADOPTING SPECIAL ORDERS OF BUSINESS REQUIRING THAT AMENDMENTS BE PRE-PRINTED IN THE RECORD, AND DIRECTING THE COMMITTEE ON RULES TO REPORT A PARTICULAR TYPE OF SPECIAL ORDER OF BUSINESS ("OPEN") FOR GENERAL APPROPRIATION BILLS FOR THE REMAINDER OF THE CURRENT CONGRESS, PROPOSES A CHANGE IN THE RULES OF THE HOUSE AND, THEREFORE, DOES NOT PRESENT A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

THE HOUSE LAID ON THE TABLE AN APPEAL FROM THE RULING OF THE SPEAKER PRO TEMPORE.

On June 25, 2009, Mr. PRICE of Georgia, rose to a question of the privileges of the House and submitted the following resolution:

Whereas on January 20, 2009, Barack Obama was inaugurated as President of the United States, and the outstanding public debt of the United States stood at \$10.627 trillion;

Whereas on January 20, 2009, in the President's Inaugural Address, he stated, "[T]hose of us who manage the public's dollars will be held to account, to spend wisely, reform bad habits, and do our business in the light of day, because only then can we restore the vital trust between a people and their government.";

Whereas on February 17, 2009, the President signed into public law H.R. 1, the American Recovery and Reinvestment Act of 2009;

Whereas the American Recovery and Reinvestment Act of 2009 included \$575 billion of new spending and \$212 billion of revenue reductions for a total deficit impact of \$787 billion;

Whereas the borrowing necessary to finance the American Recovery and Reinvestment Act of 2009 will cost an additional \$300 billion;

Whereas on February 26, 2009, the President unveiled his budget blueprint for FY 2010;

Whereas the President's budget for FY 2010 proposes the eleven highest annual deficits in U.S. history;

Whereas the President's budget for FY 2010 proposes to increase the national debt to \$23.1 trillion by FY 2019, more than doubling it from current levels;

Whereas on March 11, 2009, the President signed into public law H.R. 1105, the Omnibus Appropriations Act, 2009;

Whereas the Omnibus Appropriations Act, 2009 constitutes nine of the twelve appropriations bills for FY 2009 which had not been enacted before the start of the fiscal year;

Whereas the Omnibus Appropriations Act, 2009 spends \$19.1 billion more than the request of President Bush;

Whereas the Omnibus Appropriations Act, 2009 spends \$19.0 billion more than simply extending the continuing resolution for FY 2009;

Whereas on April 1, 2009, the House considered H. Con. Res. 85, Congressional Democrats' budget proposal for FY 2010;

Whereas the Congressional Democrats' budget proposal for FY 2010, H. Con. Res. 85, proposes the six highest annual deficits in U.S. history;

Whereas the Congressional Democrats' budget proposal for FY 2010, H. Con. Res. 85, proposes to increase the national debt to \$17.1 trillion over five years, \$5.3 trillion more than compared to the level on January 20, 2009;

Whereas Congressional Republicans produced an alternative budget proposal for FY 2010 which spends \$4.8 trillion less than the Congressional Democrats' budget over 10 years;

Whereas the Republican Study Committee proposed an alternative budget proposal for FY 2010 which improves the budget outlook in every single year, balances the budget by FY 2019, and cuts the national debt by more than \$6 trillion compared to the President's budget;

Whereas on April 20, 2009, attempting to respond to public criticism, the President convened the first cabinet meeting of his Administration and challenged his cabinet to cut a collective \$100 million in the next 90 days;

Whereas the challenge to cut a collective \$100 million represents just 1/40,000 of the Federal budget;

Whereas on June 16, 2009, total outstanding Troubled Asset Relief Program, or TARP, funds to banks stood at \$197.6 billion;

Whereas on June 16, 2009, total outstanding TARP funds to AIG stood at \$69.8 billion;

Whereas on June 16, 2009, total outstanding TARP funds to domestic automotive manufacturers and their finance units stood at \$80 billion;

Whereas on June 19, 2009, the outstanding public debt of the United States was \$11.409 trillion;

Whereas on June 19, 2009, each citizen's share of the outstanding public debt of the United States came to \$37,236.88;

Whereas according to a New York Times/CBS News survey, three-fifths of Americans (60 percent) do not think the President has developed a clear plan for dealing with the current budget deficit;

Whereas the best means to develop a clear plan for dealing with runaway Federal spending is a real commitment to fiscal restraint and an open and transparent appropriations process in the House of Representatives;

Whereas before assuming control of the House of Representatives in January 2007, Congressional Democrats were committed to an open and transparent appropriations process;

Whereas according to a document by Congressional Democrats entitled "Democratic Declaration: Honest Leadership and Open Government," page 2 states, "Our goal is to restore accountability, honesty and openness at all levels of government.";

Whereas according to a document by Congressional Democrats entitled "A New Direction for America," page 29 states, "Bills should generally come to the floor under a procedure that allows open, full, and fair debate consisting of a full amendment process that grants the Minority the right to offer its alternatives, including a substitute.";

Whereas on November 21, 2006, The San Francisco Chronicle reported, "Speaker Pelosi pledged to restore 'minority rights'—including the right of Republicans to offer amendments to bills on the floor . . . The principles of civility and respect for minority participation in this House is something that we promised the American people, she said. 'It's the right thing to do.'" (The San Francisco Chronicle, November 21, 2006);

Whereas on December 6, 2006, Speaker Nancy Pelosi stated, "[We] promised the American people that we would have the most honest and open government and we will.";

Whereas on December 17, 2006, The Washington Post reported, "After a decade of bitter partisanship that has all but crippled efforts to deal with major national problems, Pelosi is determined to try to return the House to what it was in an earlier era—'where you debated ideas and listened to each others arguments.'" (The Washington Post, December 17, 2006);

Whereas on December 5, 2006, Majority Leader Steny Hoyer stated, "We intend to have a Rules Committee . . . that gives opposition voices and alternative proposals the ability to be heard and considered on the floor of the House." (CongressDaily PM, December 5, 2006);

Whereas during debate on June 14, 2005, in the Congressional Record on page H4410, Chairwoman Louise M. Slaughter of the House Rules Committee stated, "If we want to foster democracy in this body, we should take the time and thoughtfulness to debate all major legislation under an open rule, not just appropriations bills, which are already restricted. An open process should be the norm and not the exception.";

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Whereas since January 2007, there has been a failure to commit to an open and transparent process in the House of Representatives;

Whereas more bills were considered under closed rules, 64 total, in the 110th Congress under Democratic control, than in the previous Congress, 49, under Republican control;

Whereas fewer bills were considered under open rules, 10 total, in the 110th Congress under Democratic control, than in the previous Congress, 22, under Republican control;

Whereas fewer amendments were allowed per bill, 7.68, in the 110th Congress under Democratic control, than in the previous Congress, 9.22, under Republican control;

Whereas the failure to commit to an open and transparent process in order to develop a clear plan for dealing with runaway Federal spending reached its pinnacle in the House's handling of H.R. 2847, the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010;

Whereas H.R. 2847, the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010 contains \$64.4 billion in discretionary spending, 11.6 percent more than enacted in FY 2009;

Whereas on June 11, 2009, the House Rules Committee issued an announcement stating that amendments for H.R. 2847, the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010 must be pre-printed in the Congressional Record by the close of business on June 15, 2009;

Whereas both Republicans and Democrats filed 127 amendments in the Congressional Record for consideration on the House floor;

Whereas on June 15, 2009, the House Rules Committee reported H. Res. 544, a rule with a pre-printing requirement and unlimited pro forma amendments for purposes of debate;

Whereas on June 16, 2009, the House proceeded with one hour of general debate, or one minute to vet each \$1.07 billion in H.R. 2847, in the Committee of the Whole;

Whereas after one hour of general debate the House proceeded with amendment debate;

Whereas after just 22 minutes of amendment debate, or one minute to vet each \$3.02 billion in H.R. 2847, a motion that the Committee rise was offered by Congressional Democrats;

Whereas the House agreed on a motion that the Committee rise by a recorded vote of 179 Ayes to 124 Noes, with all votes in the affirmative being cast by Democrats;

Whereas afterwards, the House Rules Committee convened a special, untelevised meeting to dispense with further proceedings on H.R. 2847, the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010;

Whereas on June 17, 2009, the House Rules Committee reported H. Res. 552, a new and restrictive structured rule for H.R. 2847, the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010;

Whereas every House Republican and 27 House Democrats voted against agreeing on H. Res. 552;

Whereas H. Res. 552 made in order just 23 amendments, with a possibility for 10 more amendments, out of the 127 amendments originally filed;

Whereas H. Res. 552 severely curtailed pro forma amendments for the purposes of debate;

Whereas the actions of Congressional Democrats to curtail debate and the number of amendments offered to H.R. 2847, the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010 effectively ended the process to deal with runaway Federal spending in a positive and responsible manner; and

Whereas the actions taken have resulted in indignity being visited upon the House of Representatives: Now, therefore, be it

Resolved, That—

(1) the House of Representatives recommit itself to fiscal restraint and develop a clear plan for dealing with runaway Federal spending;

(2) the House of Representatives return to its best traditions of an open and transparent appropriations process without a pre-printing requirement; and

(3) the House Rules Committee shall report out open rules for all general appropriations bills throughout the remainder of the 111th Congress.

Mr. PRICE of Georgia, was recognized to speak to the question of the privileges of the House and said:

“Madam Speaker, questions of privileges of the House come to floor by virtue of rule IX of the House of Representatives which states, in part, questions of privileges shall be first those affecting the rights of the House collectively, its safety, dignity and the integrity of its proceedings. Integrity of its proceedings, Madam Speaker.

“The Commerce, Science, Justice, Appropriations bill that was outlined in the resolution that has just been read—clearly, the actions taken by the Democrats in charge, clearly have disenfranchised every single Member of this House, limiting their ability to effectively represent their constituents.

“Madam Speaker, these actions, these actions by the Democrats in charge have violated, I believe, and I believe that the Members of the House would concur, have violated the integrity of our proceedings, and therefore I believe that this resolution constitutes a privileged resolution.”

The SPEAKER pro tempore, Mrs. TAUSCHER, ruled that the resolution submitted did not present a question of the privileges of the House under rule IX, and said:

“In evaluating the resolution offered by the gentleman from Georgia under the standards of rule IX, the Chair is mindful of the principle that a question of the privileges of the House may not be invoked to prescribe a special order of business for the House. Prior rulings of the Chair in that regard are annotated in section 706 of the House Rules and Manual.

“The resolution offered by the gentleman from Georgia proposes a special order of business by directing the Committee on Rules to report a certain kind of resolution, and for that reason does not present a question of the privileges of the House.”

Mr. PRICE of Georgia, appealed the ruling of the Chair.

The question being stated,

Will the decision of the Chair stand as the judgment of the House?

Mr. DICKS moved to lay the appeal on the table.

The question being put, viva voce,

Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER pro tempore, Mrs. TAUSCHER, announced that the yeas had it.

Mr. PRICE of Georgia, demanded that the vote be taken by the yeas and

nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 245
affirmative } Nays 174

¶84.25 [Roll No. 461]

So the motion to lay the appeal on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶87.13)

TO A BILL ADDRESSING SMALL BUSINESS INVESTMENT PROGRAMS, AN AMENDMENT PROPOSED IN A MOTION TO RECOMMIT EXPRESSING THE SENSE OF THE HOUSE ON THE CONSIDERATION OF APPROPRIATION BILLS, A WHOLLY UNRELATED MATTER, IS NOT GERMANE.

THE HOUSE LAID ON THE TABLE AN APPEAL FROM THE RULING OF THE SPEAKER PRO TEMPORE.

On July 8, 2009, Ms. VELAQUEZ made a point of order against consideration of the motion, and said:

“Mr. Speaker, I insist on my point of order.

“Putting aside the gentleman's comments, let me just say that we spent almost 2 hours, 3 hours here debating the SBIR/STTR, and what we heard is people talking about the economic downturn and how can we grow this economy. This bill deals with title IX of the Small Business Act. As such, Mr. Speaker, under clause 7 of the House rule, the amendment is not in order and is not germane to the underlying bill.”

The SPEAKER pro tempore, Mr. JACKSON of Illinois, sustained the point of order, and said:

“The motion proposes an amendment expressing a sense of Congress on a wholly unrelated topic. That amendment is not germane. The point of order is sustained. The motion is not in order.”

Mr. SIMPSON appealed the ruling of the Chair.

The question being stated,

Will the decision of the Chair stand as the judgment of the House?

Ms. VELAZQUEZ moved to lay the appeal on the table.

The question being put, viva voce,

Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER pro tempore, Mr. JACKSON of Illinois, announced that the nays had it.

Ms. VELAQUEZ demanded a recorded vote on agreeing to said motion, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

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It was decided in the { Yeas 246
affirmative } Nays 181
¶87.14 [Roll No. 485]

So the motion to lay the appeal on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶87.23)

PURSUANT TO SECTION 426(B)(4) OF THE CONGRESSIONAL BUDGET ACT OF 1974, A MEMBER WHO MAKES A POINT OF ORDER UNDER SECTION 426(A) OF THE ACT AND SATISFIES THE THRESHOLD BURDEN SPECIFIED IN SECTION 426(B)(2) OF THE ACT BY CITING LANGUAGE IN THE RESOLUTION THAT WAIVES THE APPLICATION OF SECTION 425 OF THE ACT IS RECOGNIZED TO CONTROL ONE-HALF OF THE 20 MINUTES PROVIDED FOR DEBATE ON THE QUESTION OF CONSIDERATION.

PURSUANT TO SECTION 426(B)(3) OF THE CONGRESSIONAL BUDGET ACT OF 1974, AS DISPOSITION OF A POINT OF ORDER RAISED UNDER SECTION 426(A) OF THE ACT, THE CHAIR PUTS THE QUESTION OF CONSIDERATION WITH RESPECT TO THE PROPOSITION THAT IS THE OBJECT OF THE POINT OF ORDER.

On July 8, 2009, Mr. FLAKE made a point of order against consideration of the resolution, and said:

“Mr. Speaker, I raise a point of order against House Resolution 609 because the resolution violates section 426(a) of the Congressional Budget Act. The resolution contains a waiver of all points of order against consideration of the bill, which includes a waiver of section 425 of the Congressional Budget Act, which causes a violation of section 426(a).”

The SPEAKER pro tempore, Mr. ALTMIRE, responded to the point of order, and said:

“The gentleman from Arizona [Mr. FLAKE] makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

“In accordance with section 426(b)(2) of the Act, the gentleman from Arizona has met the threshold burden to identify the specific language in the resolution on which the point of order is predicated.

“Pursuant to section 426(b)(3) of the Act, after debate, the Chair will put the question of consideration, to wit: ‘Will the House now consider the resolution?’”

Mr. FLAKE was further recognized and said:

“Mr. Speaker, I raise this point of order not necessarily out of concern for unfunded mandates, although there are likely some in here. I raise a point of order because it’s the only vehicle we’ve got to actually talk about this rule and this bill and how we are being denied the ability to actually offer the amendments that we would like to, to

illuminate what’s actually in this bill and how this is a break again from the hallmark and tradition of this House, which is to allow open debate on appropriation bills.

“We’ve heard a lot about the sweeping reforms, particularly on earmarks, since 2007. Some of these reforms are good. Some of them—like requiring Members to put their names next to earmarks, requiring them to sign a certification letter that they have no financial interest in the earmark—are good reforms. They are reforms that many of us in this body have wanted for a long time. But we haven’t drained the swamp. All we’ve done is we now know the depth of the mud that we’re wading in, and we’re simply not able to hold those accountable who should be held accountable. We have the transparency that we need, some of it, most of it; but with that transparency should come accountability. When you’re denied the ability to offer amendments on the floor or are restricted in the number that you can offer, then you aren’t able to use that transparency to any good effect.

“In fiscal year 2007 during the appropriations process, I was able to offer 40 earmark limitation amendments. These were bipartisan, including eight to the Agriculture appropriations bill. In fiscal year 2008 I offered nearly 50 bipartisan amendments, including five to the Ag appropriations bill. Now last year only one appropriations bill even moved through the House under regular order, the Military Construction-VA appropriations bill. This bill was jammed together with a so-called minibus with the Homeland Security bill and the Defense bill. This came to the House under a closed rule. There were no amendments allowed at all. The remaining bills were jammed into a must-pass omnibus bill earlier this year. Only a handful of those were even reported out of committee. That meant that there were over 7,000 earmarks worth more than \$8 billion air-dropped into this bill and not one limitation amendment, not one striking amendment, really not any amendments of any kind were even allowed on that bill. So we went through a whole year basically with virtually no amendments offered at all where these bills, these appropriations bills weren’t even vetted.

“So now we come to this year, and we’re told we’re going to get back to regular order, we’re going to move appropriations bills one at a time and give Members the opportunity to offer limitation amendments. And what do we do? We close them down. The Rules Committee says, Okay, you’ve offered 12 amendments, maybe you can offer three of those amendments—you choose—on the floor. That’s not real accountability. That’s not the tradition of this House. That’s not an open rule.

“And when you see things like this—this is in Roll Call today—The Justice Department this week filed criminal charges against a defense contractor

who has received millions of dollars worth of earmarks. Today’s Roll Call. Today’s Hill—Kickback charges against a defense contractor are putting people in this body, organizations here, in a hard position on whether to return campaign contributions back to the contractor charged with accepting kickbacks in return for earmarked dollars. And yet we’re going to be considering the Defense appropriation bill later this month that will contain probably more than 1,000 earmarks from this body, most of them earmarks to for-profit companies, most of which will have executives who turn around and make campaign contributions to the Members who secured the earmarks for them.

“Yet I would submit that the purpose of what we’re going through now through these appropriation bills is to basically ready this body for the Defense appropriation bill, where people will be used to not offering amendments. Then where we would be able to illuminate a little bit on the floor at least where these earmarks are going, is it proper for this earmark to go to a for-profit company whose executives turn around and make campaign contributions to the Member who secured that earmark for them? Basically Members getting earmarks for their campaign contributors. Instead of being able to stand up and illuminate that, we’ll likely be restricted to one or two amendments, or maybe none. That’s what we’re going through right now, and that’s what it’s going to lead to.

“Now people say that nobody pays attention to process outside of this body or outside of this town. That’s largely true. It’s tough to score political points saying, The majority party simply won’t allow amendments offered on the floor. People typically don’t pay attention to bad process. But bad process always begets bad results or bad policy. We learned it on this side. When you hold a vote open for 3 hours—like we did the prescription drug bill vote—and twist arms, you get a bad result. We added about \$11 trillion in unfunded liabilities for future generations. We had several of those, which I think on this side we’re probably not proud of. But I can tell you, we always held appropriation bills up, though, and allowed open rules and allowed Members to offer amendments even though it might have been uncomfortable for Members to hear what was being brought to the floor. A departure from that means that we’re going to have bad results. We’ve seen that in the last year or so. When we’ve restricted the ability of Members to actually offer results, then we have Justice Department investigations because the proper vetting was not done.

“Now I would wish—I think all of us would wish—that some vetting would be done in the Appropriations Committee, but sadly it hasn’t been done. The chairman of the committee has said many times that they simply don’t have the time nor the resources

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to vet all of these earmark requests, and I believe them. But if that is the case, the answer isn't to shut the process down. The answer is, don't bring the bill to the floor with so many earmarks in it. But here instead of doing that, we're saying, 'All right, we can't vet these earmarks, so we're simply going to close our eyes and pretend that these earmarks aren't there and not allow anybody to tell anybody that they're there. Let's not allow anybody to come to the floor and offer them.' That is a bad process which leads to bad results.

"Now make no mistake, as I mentioned, what we're going through now—I don't think the majority party or the minority party is so much concerned about how many amendments are offered to the Agriculture bill as they are about setting a precedent for what might come later with the Defense appropriation bill. Remember, that is the important one with regard to earmarks for campaign contributors. If we allow a process to develop here where we shield Members and shield earmarks by not allowing Members to challenge them on the floor, then we will get more headlines like this one in the paper today, headlines that we see over and over and over again which have led to investigations by the Justice Department, which have led finally to our own Ethics Committee, finally, hopefully having launched its own investigation. It is unbelievable to me that we have this going on on the outside, and yet we will still go through a process where we allow Members of Congress here to earmark for their campaign contributors. And instead of allowing Members to come to the floor and actually challenge some of those, we shut down the process so they can't. We close the rule so very few earmark amendments, limitation amendments, are even allowed."

Mr. MCGOVERN was recognized to speak to the point of order and said:

"Mr. Speaker, just so there's no confusion, I want to remind my colleagues that we are dealing with the Agriculture appropriations bill and not the Defense appropriations bill or any other appropriations bill. This is the Agriculture appropriations bill.

"Mr. Speaker, technically this point of order is about whether or not to consider this rule and ultimately the underlying bill. In reality, it's about trying to block this bill without any opportunity for debate and without any opportunity for an up-or-down vote on the legislation itself.

"Mr. Speaker, the underlying bill that we want to consider here is a bill that provides food and nutrition to some of the most desperate people in this country. It's a bill that will provide much-needed help to farmers in rural areas all across this country. This is an important bill for a number of reasons, and I think it's wrong to try to delay this bill or block this legislation from coming to the floor. I hope my colleagues will vote 'yes' so that we can consider this important legislation

on its merits and not stop it on a procedural obstructionist motion.

"Those who oppose this bill can vote against it on final passage. We must consider this rule, and we must pass this legislation today. Mr. Speaker, I have the right to close; but in the end I will urge my colleagues to vote 'yes' to consider the rule."

Mr. FLAKE was further recognized and said:

"I will talk specifically about the Ag appropriations bill. This bill has hundreds and hundreds of earmarks in it. I think there are maybe half a dozen total earmark limitation amendments that are allowed under this rule. That's simply not sufficient, Mr. Speaker. That's not sufficient. We should be allowing more. I understand the other side wants to hide the fact that 64 percent of the earmarks in this legislation are going to just 25 percent of the body, that the Appropriations Committee, which makes up just under 14 percent of this body, actually comes away with 56 percent of the earmarks.

"I understand that those who are in charge of this legislation don't want that to be known, but it's still not right to limit the number of amendments that can be offered and to limit the time. So I would plead to not go forward with consideration of this bill under this rule."

Mr. MCGOVERN was further recognized and said:

"Mr. Speaker, I can appreciate the tactics that my friends on the other side of the aisle are employing right now to try to delay and obstruct this legislation from moving forward. But, as I said, this legislation is important. It's important to a lot of people. The food stamp program is funded in this bill, WIC, a lot of important nutrition programs, plus a lot of important aid to farmers who are struggling in this tough economy. This is an important piece of legislation.

"Again, I want to urge my colleagues to vote 'yes' on this motion to consider so we can debate and pass this important piece of legislation today. I would urge my colleagues to vote 'yes' and enough of these obstructionist tactics."

After debate,

The question being put, *viva voce*,

Will the House now consider said resolution?

The SPEAKER pro tempore, Mr. ALTMIRE, announced that the yeas had it.

Mr. FLAKE demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the	{	Yeas	244
affirmative	{	Nays	185

¶87.24

[Roll No. 489]

So the House decided to consider said resolution.

A motion to reconsider the vote whereby the House decided to consider

the resolution was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶88.29)

AN AMENDMENT PROPOSED IN A MOTION TO RECOMMEND A GENERAL APPROPRIATION BILL EXPRESSING THE POLICY OF THE HOUSE ON THE TERMS OF CONSIDERATION OF THE PENDING BILL IS LEGISLATION IN VIOLATION OF CLAUSE 2 OF RULE XXI AND WAS RULED OUT.

THE HOUSE LAID ON THE TABLE AN APPEAL FROM THE RULING OF THE SPEAKER PRO TEMPORE.

On July 9, 2009, Ms. DeLAURO made a point of order against consideration of the motion, and said:

"I make a point of order against the motion to recommit because it is in violation of clause 2, rule XXI, legislating.

"I ask for a ruling of the Chair."

Mr. KINGSTON was recognized to speak to the point of order and said:

"I thank my colleague from Connecticut for the opportunity to speak on this. And I want to talk to the Members of the House on why this motion to recommit is important to all of us.

"We are on the verge of voting on a \$123.8 billion bill which represents a 14 percent increase over last year's spending level in the backdrop of a nation that has an \$11 trillion national debt.

"Mr. Speaker, this administration has spent nearly \$2 trillion in deficit spending. Now, what this motion to recommit does is says that we were not allowed to vote on 90 different amendments offered by Democrats and Republicans, representing nearly 650,000 people each. These amendments, had we had the opportunity to vote on them, would have improved the bill. One of them, for example, was a 1 percent savings—Mr. Speaker, this administration has spent nearly \$2 trillion in deficit spending. Now, what this motion to recommit does is says that we were not allowed to vote on 90 different amendments offered by Democrats and Republicans, representing nearly 650,000 people each. These amendments, had we had the opportunity to vote on them, would have improved the bill. One of them, for example, was a 1 percent savings—

"Mr. Speaker, the motion does not change existing law; therefore, the gentleman's point of order is invalid."

Mr. MICA was recognized to speak to the point of order and said:

"Mr. Speaker, in order to properly address the point of order, I think it is important that we look at House Resolution 609, which was adopted by the Rules Committee to set the order and the consideration of the legislation that's before the House today. It also excluded a large number of amendments that were crafted, Mr. Speaker, to the objection—the same objection that's being raised here—that in fact those amendments were legislating on

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an appropriations bill, which in fact is out of order because of the way this was crafted.

"Now, the gentleman from Georgia has in fact offered a motion that does contain some provisions that would change the law, but only the appropriations which this part of the bill deals with. And this point has been raised against the motion to recommit.

"So, in fact, what I was denied was the opportunity, Mr. Speaker, to offer one of the amendments. And I believe the reading clerk—I couldn't hear, but I believe the reading clerk mentioned my name among the names of those who were denied an amendment that would legislate on appropriations.

"Again, I think the point of order is that the Rules Committee crafted a rule, and we adopted previous amendments—one by the gentlelady who is now objecting—that did in fact legislate on an appropriation matter, no different from what the gentleman from Georgia is now attempting to do. The precedence of the House—Mr. YOUNG, I talked to him earlier, he said he's been here 39 years and he has never seen appropriations handled in this unfair manner.

"So, again, I think the point is that the gentleman from Georgia is proceeding in good faith, in fact, in the order that has been presented by the Rules Committee on the order to proceed."

The SPEAKER pro tempore, Mr. ROSS sustained the point of order, and said:

"The motion to recommit offered by the gentleman from Georgia proposes an amendment addressing a policy regarding special orders of business for consideration of appropriation bills. That is not a matter of appropriation or limitation thereof; rather, it is wholly legislative in character. As such, it violates clause 2 of rule XXI.

"The point of order is sustained. The motion is not in order."

Mr. KINGSTON appealed the ruling of the Chair.

The question being stated,

Will the decision of the Chair stand as the judgment of the House?

Ms. DELAURO moved to lay the appeal on the table.

The question being put, viva voce,

Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER pro tempore, Mr. ROSS, announced that the yeas had it.

Mr. KINGSTON demanded a recorded vote on the motion, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 246
affirmative } Nays 179

¶88.30

[Roll No. 509]

So the motion to lay the appeal on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to

was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

(¶88.34)

A RESOLUTION PROVIDING THAT THE RULES COMMITTEE REPORT OPEN RULES FOR CONSIDERATION OF FUTURE APPROPRIATION BILLS PROPOSES A SPECIAL ORDER OF BUSINESS AND DOES NOT PRESENT A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

THE HOUSE LAID ON THE TABLE AN APPEAL FROM THE RULING OF THE SPEAKER PRO TEMPORE.

On July 9, 2009, Mr. PRICE of Georgia, pursuant to rule IX, rose to a question of the privileges of the House and submitted the following resolution:

Whereas on January 20, 2009, Barack Obama was inaugurated as President of the United States, and the outstanding public debt of the United States stood at \$10.627 trillion;

Whereas on January 20, 2009, in the President's Inaugural Address, he stated, "[T]hose of us who manage the public's dollars will be held to account, to spend wisely, reform bad habits, and do our business in the light of day, because only then can we restore the vital trust between a people and their government.";

Whereas on February 17, 2009, the President signed into public law H.R. 1, the American Recovery and Reinvestment Act of 2009;

Whereas the American Recovery and Reinvestment Act of 2009 included \$575 billion of new spending and \$212 billion of revenue reductions for a total deficit impact of \$787 billion;

Whereas the borrowing necessary to finance the American Recovery and Reinvestment Act of 2009 will cost an additional \$300 billion;

Whereas on February 26, 2009, the President unveiled his budget blueprint for FY 2010;

Whereas the President's budget for FY 2010 proposes the eleven highest annual deficits in U.S. history;

Whereas the President's budget for FY 2010 proposes to increase the national debt to \$23.1 trillion by FY 2019, more than doubling it from current levels;

Whereas on March 11, 2009, the President signed into public law H.R. 1105, the Omnibus Appropriations Act, 2009;

Whereas the Omnibus Appropriations Act, 2009 constitutes nine of the twelve appropriations bills for FY 2009 which had not been enacted before the start of the fiscal year;

Whereas the Omnibus Appropriations Act, 2009 spends \$19.1 billion more than the request of President Bush;

Whereas the Omnibus Appropriations Act, 2009 spends \$19.0 billion more than simply extending the continuing resolution for FY 2009;

Whereas on April 1, 2009, the House considered H. Con. Res. 85, Congressional Democrats' budget proposal for FY 2010;

Whereas the Congressional Democrats' budget proposal for FY 2010, H. Con. Res. 85, proposes the six highest annual deficits in U.S. history;

Whereas the Congressional Democrats' budget proposal for FY 2010, H. Con. Res. 85, proposes to increase the national debt to \$17.1 trillion over five years, \$5.3 trillion more than compared to the level on January 20, 2009;

Whereas Congressional Republicans produced an alternative budget proposal for FY

2010 which spends \$4.8 trillion less than the Congressional Democrats' budget over 10 years;

Whereas the Republican Study Committee produced an alternative budget proposal for FY 2010 which improves the budget outlook in every single year, balances the budget by FY 2019, and cuts the national debt by more than \$6 trillion compared to the President's budget;

Whereas on April 20, 2009, attempting to respond to public criticism, the President convened the first cabinet meeting of his Administration and challenged his cabinet to cut a collective \$100 million in the next 90 days;

Whereas the challenge to cut a collective \$100 million represents just 1/40,000 of the Federal budget;

Whereas on June 16, 2009, total outstanding Troubled Asset Relief Program, or TARP, funds to banks stood at \$197.6 billion;

Whereas on June 16, 2009, total outstanding TARP funds to AIG stood at \$69.8 billion;

Whereas on June 16, 2009, total outstanding TARP funds to domestic automotive manufacturers and their finance units stood at \$80 billion;

Whereas on June 19, 2009, the outstanding public debt of the United States was \$11.409 trillion;

Whereas on June 19, 2009, each citizen's share of the outstanding public debt of the United States came to \$37,236.88;

Whereas according to a New York Times/CBS News survey, three-fifths of Americans (60 percent) do not think the President has developed a clear plan for dealing with the current budget deficit (New York Times/CBS News, Conducted June 12-16, 2009, Survey of 895 Adults Nationwide);

Whereas the best means to develop a clear plan for dealing with runaway Federal spending is a real commitment to fiscal restraint and an open and transparent appropriations process in the House of Representatives;

Whereas before assuming control of the House of Representatives in January 2007, Congressional Democrats were committed to an open and transparent appropriations process;

Whereas according to a document by Congressional Democrats entitled "Democratic Declaration: Honest Leadership and Open Government," page 2 states, "Our goal is to restore accountability, honesty and openness at all levels of government.";

Whereas according to a document by Congressional Democrats entitled "A New Direction for America," page 29 states, "Bills should generally come to the floor under a procedure that allows open, full, and fair debate consisting of a full amendment process that grants the Minority the right to offer its alternatives, including a substitute.";

Whereas on November 21, 2006, The San Francisco Chronicle reported, "Speaker Pelosi pledged to restore 'minority rights'—including the right of Republicans to offer amendments to bills on the floor . . . The principle of civility and respect for minority participation in this House is something that we promised the American people, she said. 'It's the right thing to do.'" ("Pelosi's All Smiles through a Rough House Transition," The San Francisco Chronicle, November 21, 2006);

Whereas on December 6, 2006, Speaker Nancy Pelosi stated, "[We] promised the American people that we would have the most honest and open government and we will.";

Whereas on December 17, 2006, The Washington Post reported, "After a decade of bitter partisanship that has all but crippled efforts to deal with major national problems, Pelosi is determined to try to return the House to what it was in an earlier era—where you debated ideas and listened to

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each others arguments.'” (“Pelosi’s House Diplomacy,” The Washington Post, December 17, 2006);

Whereas on December 5, 2006, Majority Leader Steny Hoyer stated, “We intend to have a Rules Committee . . . that gives opposition voices and alternative proposals the ability to be heard and considered on the floor of the House.” (“Hoyer Says Dems’ Plans Unruffled by Approps Logjam,” CongressDaily PM, December 5, 2006);

Whereas during debate on June 14, 2005, in the Congressional Record on page H4410, Chairwoman Louise M. Slaughter of the House Rules Committee stated, “If we want to foster democracy in this body, we should take the time and thoughtfulness to debate all major legislation under an open rule, not just appropriations bills, which are already restricted. An open process should be the norm and not the exception.”;

Whereas since January 2007, there has been a failure to commit to an open and transparent process in the House of Representatives;

Whereas more bills were considered under closed rules, 64 total, in the 110th Congress under Democratic control, than in the previous Congress, 49, under Republican control;

Whereas fewer bills were considered under open rules, 10 total, in the 110th Congress under Democratic control, than in the previous Congress, 22, under Republican control;

Whereas fewer amendments were allowed per bill, 7.68, in the 110th Congress under Democratic control, than in the previous Congress, 9.22, under Republican control;

Whereas the failure to commit to an open and transparent process in order to develop a clear plan for dealing with runaway Federal spending reached its pinnacle in the House’s handling of H.R. 2847, the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010;

Whereas H.R. 2847, the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010 contains \$64.4 billion in discretionary spending, 11.6 percent more than enacted in FY 2009;

Whereas on June 11, 2009, the House Rules Committee issued an announcement stating that amendments for H.R. 2847, the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010 must be pre-printed in the Congressional Record by the close of business on June 15, 2009;

Whereas both Republicans and Democrats filed 127 amendments in the Congressional Record for consideration on the House floor;

Whereas on June 15, 2009, the House Rules Committee reported H. Res. 544, a rule with a pre-printing requirement and unlimited pro forma amendments for purposes of debate;

Whereas on June 16, 2009, the House proceeded with one hour of general debate, or one minute to vet each \$1.07 billion in H.R. 2847, in the Committee of the Whole;

Whereas after one hour of general debate the House proceeded with amendment debate;

Whereas after just 22 minutes of amendment debate, or one minute to vet each \$3.02 billion in H.R. 2847, a motion that the Committee rise was offered by Congressional Democrats;

Whereas the House agreed on a motion that the Committee rise by a recorded vote of 179 Ayes to 124 Noes, with all votes in the affirmative being cast by Democrats;

Whereas afterwards, the House Rules Committee convened a special, untelevised meeting to dispense with further proceedings on H.R. 2847, the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010;

Whereas on June 17, 2009, the House Rules Committee reported H. Res. 552, a new and restrictive structured rule for H.R. 2847, the

Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010;

Whereas every House Republican and 27 House Democrats voted against agreeing on H. Res. 552;

Whereas H. Res. 552 made in order just 23 amendments, with a possibility for 10 more amendments, out of the 127 amendments originally filed;

Whereas H. Res. 552 severely curtailed pro forma amendments for the purposes of debate;

Whereas the actions of Congressional Democrats to curtail debate and the number of amendments offered to H.R. 2847, the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010 effectively ended the process to deal with runaway Federal spending in a positive and responsible manner;

Whereas Congressional Democrats continue to curtail debate and the number of amendments offered to appropriations bills;

Whereas on June 18, 2009, the House Rules Committee reported H. Res. 559, a restrictive structured rule for H.R. 2918, the Legislative Branch Appropriations Act, 2010;

Whereas H. Res. 559 made in order just one amendment out of the 20 amendments originally filed;

Whereas on June 23, 2009, the House Rules Committee reported H. Res. 573, a restrictive structured rule for H.R. 2892, the Department of Homeland Security Appropriations Act, 2010;

Whereas H. Res. 573 made in order just 9 amendments, with a possibility for 5 more amendments, out of the 91 amendments originally filed;

Whereas on June 24, 2009, the House Rules Committee reported H. Res. 578, a restrictive structured rule for H.R. 2996, the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010;

Whereas H. Res. 578 made in order just 8 amendments, with a possibility for 5 more amendments, out of the 105 amendments originally filed; and

Whereas the actions taken have resulted in indignity being visited upon the House of Representatives: Now, therefore, be it

Resolved, That—

(1) the House of Representatives recommit itself to fiscal restraint and develop a clear plan for dealing with runaway Federal spending;

(2) the House of Representatives return to its best traditions of an open and transparent appropriations process without a pre-printing requirement; and

(3) the House Rules Committee shall report out open rules for all general appropriations bills throughout the remainder of the 111th Congress.

The SPEAKER pro tempore, Mr. SNYDER, announced the following question of the privileges of the House and said:

“Does the gentleman from Georgia wish to present argument on why the resolution is privileged for immediate consideration?”

Mr. PRICE of Georgia, was recognized to speak to the question of the privileges of the House and said:

“Mr. Speaker, rule IX regarding questions of the privilege of the House states that questions of privilege shall be first those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings. The integrity of its proceedings.

“Mr. Speaker, clearly, the unprecedented actions that have been taken by the Democrats in charge have disenfranchised every single Member of this

House. Appropriations bills have been, by tradition and previously by rule, brought to the floor under what’s called an ‘open rule,’ which means that every single Member of the House has an opportunity to affect the bill, to represent his or her constituents.

“Each of us represents basically the same number of folks, 650,000, 675,000. When Members are not allowed to bring amendments to the floor on the spending of their constituents’ tax money, that disenfranchises those Members. That is an affront to the House. It presents an indignity to the House.

“Mr. Speaker, I understand that the closed rule that was passed recently, yesterday, resulted in more closed rules on appropriations bills in this House of Representatives by this leadership, by these Democrats in charge, more than any in the history, not of this decade, not of this century, but in the history of this Republic. Mr. Speaker, in the history of this Republic.

“Now, I know my friend from California says that this is not the way we want things to operate, but, Mr. Speaker, they control the process. They control this tyranny. Mr. Speaker, it is indeed tyranny. It’s tyranny by the majority. It’s what de Tocqueville warned about over 150 years ago when he said that the majority can indeed shut down the rights of the minority. And that’s exactly what is happening, which is why this resolution ought to be a privileged resolution, because what it directs the Rules Committee to do is to return to regular order; return to a process that allows each and every one of us to represent our constituents; return to a process that Mr. Obey, then in the minority on the Appropriations Committee, said, ‘We have gotten so far from the regular order that I fear that if this continues, the House will not have the capacity to return to the precedents and procedures of the House that have given true meaning to the term ‘representative democracy.’ The reason we have stuck to regular order as long as we have in this Institution is to protect the rights of every Member to participate. And when we lose those rights, we lose the right to be called the greatest deliberative body in the world.

“Mr. Speaker, the tyranny of this majority, the tyranny of the folks in charge right now, have resulted in an affront on this House. Those actions, these actions have clearly violated the integrity of our proceedings. Therefore, I believe that this resolution qualifies as a privileged resolution of this House.”

The SPEAKER pro tempore, Mr. SNYDER, ruled that the resolution submitted did not present a question of the privileges of the House under rule IX and said:

“In evaluating the resolution offered by the gentleman from Georgia under the standards of rule IX, the Chair must be mindful of a fundamental prin-

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ciple illuminated by annotations of precedent in section 706 of the House Rules and Manual. That basic principle is that a question of the privileges of the House may not be invoked to prescribe a special order of business for the House.

"The Chair finds that the resolution offered by the gentleman from Georgia, by directing the Committee on Rules to report a certain kind of resolution, proposes a special order of business. Under a long and well-settled line of precedent presently culminating in the ruling of June 25, 2009, such a resolution cannot qualify as a question of the privileges of the House.

"The Chair therefore holds that the resolution is not privileged under rule IX for consideration ahead of other business. Instead, the resolution may be submitted through the hopper in the regular course."

Mr. PRICE of Georgia, appealed the ruling of the Chair.

The question being stated,

Will the decision of the Chair stand as the judgment of the House?

Mr. CARDOZA moved to lay the appeal on the table.

The question being put, *viva voce*,

Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER pro tempore, Mr. SNYDER, announced that the yeas had it.

Mr. PRICE of Georgia, demanded a recorded vote on agreeing to said motion, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 240
affirmative } Nays 179

¶88.35 [Roll No. 511]

So the motion to lay the appeal on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶88.58)

AN AMENDMENT PROPOSED IN A MOTION TO RECOMMIT A GENERAL APPROPRIATION BILL EXPRESSING THE POLICY OF THE HOUSE ON THE TERMS OF CONSIDERATION OF THE PENDING BILL IS LEGISLATION IN VIOLATION OF CLAUSE 2 OF RULE XXI AND WAS RULED OUT.

THE HOUSE LAID ON THE TABLE AN APPEAL FROM THE RULING OF THE SPEAKER PRO TEMPORE.

On July 9, 2009, Mrs. LOWEY made a point of order against consideration of the motion, and said:

"Mr. Speaker, I wish to insist on a point of order under clause 2 of rule XXI and believe that the Chair has heard enough of the reading to dispose of such a question."

Mr. KIRK was recognized to speak to the point of order and said:

"Mr. Speaker, the question I would ask is: How would the Chair know that a point of order lies if we haven't even read the underlying motion to recommit?"

"I would worry that we would enter into a parliamentary procedure something like the election counting in Iran where we quickly find out a result before—

"On that I would think that due consideration would be to have the House hear the motion to recommit, and once you have understood its full import, we would then be able to hear from the Chair and have the body decide if it wanted to appeal the ruling or not."

Mr. FRANK of Massachusetts, was recognized to speak to the point of order and said:

"Mr. Speaker, the logic of this point of order being in order now is that in the alternative, those Members who suffer from Senate envy could write a 700-page nongermane amendment.

"Let me amend what I said and refer to those thin-skinned Members with Senate envy.

"Mr. Speaker, the point is that the point of order is necessary to disallow filibuster by reading a nongermane amendment that could last for hours. That is why I speak in support of the point of order."

The SPEAKER pro tempore, Mr. HOLDEN, sustained the point of order, and said:

"For the reasons stated by the gentlewoman from New York, and as held in similar circumstances earlier today, the proposed amendment violates clause 2 of rule XXI. The point of order is sustained. The motion is not in order."

Mr. KIRK appealed the ruling of the Chair.

The question being stated,

Will the decision of the Chair stand as the judgment of the House?

Mrs. LOWEY moved to lay the appeal on the table.

The question being put, *viva voce*,

Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER pro tempore, Mr. HOLDEN, announced that the yeas had it.

Mr. KIRK demanded a recorded vote on the motion, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 238
affirmative } Nays 180

¶88.59 [Roll No. 523]

So the motion to lay the appeal on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶89.5)

PURSUANT TO SECTION 426(B)(4) OF THE

CONGRESSIONAL BUDGET ACT OF 1974, A MEMBER WHO MAKES A POINT OF ORDER UNDER SECTION 426(A) OF THE ACT AND SATISFIES THE THRESHOLD BURDEN SPECIFIED IN SECTION 426(B)(2) OF THE ACT BY CITING LANGUAGE IN THE RESOLUTION THAT WAIVES THE APPLICATION OF SECTION 425 OF THE ACT IS RECOGNIZED TO CONTROL ONE-HALF OF THE 20 MINUTES PROVIDED FOR DEBATE ON THE QUESTION OF CONSIDERATION.

PURSUANT TO SECTION 426(B)(3) OF THE CONGRESSIONAL BUDGET ACT OF 1974, AS DISPOSITION OF A POINT OF ORDER RAISED UNDER SECTION 426(A) OF THE ACT, THE CHAIR PUTS THE QUESTION OF CONSIDERATION WITH RESPECT TO THE PROPOSITION THAT IS THE OBJECT OF THE POINT OF ORDER.

On July 10, 2009, Mr. FLAKE made a point of order against consideration of the resolution, and said:

"Mr. Speaker, I raise a point of order against House Resolution 622 because the resolution violates section 426(a) of the Congressional Budget Act.

"The resolution contains a waiver of all points of order against consideration of the bill, which includes a waiver of section 125 of the Congressional Budget Act which causes a violation of section 426(a)."

The SPEAKER pro tempore, Mr. WEINER, responded to the point of order, and said:

"The gentleman from Arizona [Mr. FLAKE] makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

"In accordance with section 426(b)(2) of the Act, the gentleman from Arizona has met the threshold burden to identify the specific language in the resolution on which the point of order is predicated.

"Pursuant to section 426(b)(3) of the Act, after debate, the Chair will put the question of consideration, to wit: 'Will the House now consider the resolution?'"

Mr. FLAKE was further recognized and said:

"Mr. Speaker, there may well be unfunded mandates in this bill, but that's not why I rise today. I rise because it's about the only mechanism we have to talk about the fact that we are bringing appropriation bills to the floor under closed or structured rules, which violates basically every precept we've had in this House about openness and transparency on appropriation bills.

"For years—and decades—appropriation bills have been brought to the floor under an open rule, allowing Members to offer amendments to various sections of the bill and not be precluded from that. But these bills are being brought to the floor all year under closed or structured rules, allowing very, very few amendments. Let me tell you why that's important.

"Here, in the past, when Republicans were in the majority, we were lacking a lot of transparency on earmarks. I would come to the floor and offer sometimes a dozen earmark amendments on the floor to strike earmarks, and I had

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no idea most times when I would come to the floor whose earmark I was challenging. I would simply come and challenge it. And sometimes the sponsor of the earmark would come down to the floor to defend it, sometimes they wouldn't; but at least I had the opportunity to come down and challenge the earmark and there was some type of back and forth and discussion of it. Now we have some transparency rules, which is good. Some of us have pushed for these transparency rules for a while. Now we know whose earmark we're challenging on the floor. Now we know because there is a name next to it, and Members are required to fill out a certification letter stating that they have no financial interest in the earmark that they are sponsoring.

"Those are good reforms; I'm glad we have them. The Speaker of the House said during the campaign a couple of years ago that we were going to drain the swamp, referring to some of the corruption that had gone on, much of it due to earmarking. And I am pleased that some of these transparency rules have come into being. It's a good thing. The problem is we have not drained the swamp; we simply know how deep the mud is. We know that we have a problem, but we have not done much to correct that problem. Let me give you an example. And this is the case here with this rule and the rules on other appropriation bills this year.

"Now we know whose earmarks are in the bills, and we know that some of them raise questions, particularly in the Defense bill that is upcoming later this month. There are numerous investigations going on by the Department of Justice right now examining the relationship between earmarks and campaign contributions. Our own Ethics Committee issues guidance that says if you receive a campaign contribution in close proximity to an earmark that you've sponsored, that doesn't necessarily constitute financial interest; in other words, go ahead and do it. And we have many examples of earmarks going out and campaign contributions flowing in to the sponsor of the earmark. We may not see that as a problem here, but clearly the Justice Department seems to see there is a problem with that.

"And so what do we do here in the House? Instead of allowing Members to come to the floor during debate and saying, what about this earmark, what about the campaign contributions that seem to have been received as soon as that earmark was sponsored, as soon as that report came to the floor saying that that earmark was in the bill, why did campaign contributions flow in response to that—instead of being able to examine those things, we've decided to cut off debate.

"And so we have transparency rules where we now know whose earmark is in the bill, but we've prohibited Members from actually coming to the floor to examine that. So you have some more transparency, but you've cut out accountability.

"Now, we've done a number of appropriation bills, and some amendments have been allowed—very few. I think in one bill there were more than 100 amendments that were prefiled and only maybe 20 or so were allowed. I myself have submitted, in one of the latest bills, about a dozen amendments and was only allowed to offer three on the floor. My guess is that these are going to be narrowed further and further until we get to the Defense bill later this month, which we have allowed only one day of debate for. Keep in mind, this is going to be a bill that will have, likely, if tradition holds, more than 1,000 House earmarks in it, several hundred of which will constitute no-bid contracts for private companies, nearly all of which there will be a pattern of campaign contributions flowing back to the Member who sponsored that earmark.

"Now, I am not a fan of public funding of campaigns. That's not the direction we should go. And campaign contributions typically flow to Members who share the philosophy of the person who is making the contribution. But when you have a pattern, as the press has duly noted, accurately noted, that as soon as an earmark is sponsored, often there are campaign checks that come directly to that Member who sponsored the earmarks. There is an appearance of impropriety that we simply have to take account of here in the House.

"Our role here in the House and the role of the Ethics Committee is to make sure that we uphold the dignity of this institution, and we simply can't do that when you have the appearance of impropriety. And when you give a no-bid contract to a private company whose executives turn around and make large campaign contributions back to that Member who sponsored the no-bid contract to them, you have the appearance of impropriety. And it is simply wrong for us now to shut down debate on that and to say, all right, now we used to allow Members to challenge these things on the floor, but now that we know that there's an appearance of impropriety, we're simply going to shut down debate, we're not going to talk about it, we're not going to allow that debate to occur on the House floor.

"Now, I would hope that these earmarks would be talked about and discussed and vetted in the Appropriations Committee, but clearly that is not the case. If it were the case, if these were properly vetted in the Appropriations Committee, we wouldn't see the scandals that we've seen. We wouldn't have Members of Congress behind bars right now for sponsoring earmarks and taking money for them.

"Now, I'm not saying that that's occurring now, but that has in the past. And when we clearly haven't vetted these properly—and we don't do this body any service by cutting off debate on the House floor and saying we're just going to turn a blind eye because there might be a problem, and if we

stand on the floor and debate these things, then people might see that there is a problem.

"So it's good to have transparency rules. That's wonderful. But once you do have transparency, you need accountability. And when you cut off debate and cut off amendments coming to the floor and bring appropriation bills under closed rules in violation of every tradition we've had in this House, then we've got a problem.

"It is said that people outside of the beltway don't care about process, and that may be true. It's tough to make political points about process because it's tough to understand the process of this institution. But bad process always yields bad results and bad policy. It happened when we were in the majority, when we held votes open for 3 hours to allow leadership and others to twist arms. That violated every tradition of the House where you're supposed to only hold votes open for 15 minutes or slightly longer. There's a problem with that. People may not understand that outside, but it leads to bad results. And I would submit that if you shut down appropriation bills, if you shut down the process allowing Members to offer amendments on the floor and just turn a blind eye to what might be occurring, then you're going to have a problem, and you're going to increase the cynicism, rightfully, that people have about this institution.

"I have served in the House of Representatives for 9 years. This is a wonderful institution, it really is; and we owe this body much more than we're giving it. And I would hope that the leadership here would exhibit maybe more of a vested interest in upholding the dignity of this institution instead of sweeping these things under the rug and saying let's just not have debate on the House floor because people might see what is occurring.

"Mr. Speaker, I hope that, particularly when we get to the Defense bill later, where there are going to be hundreds and hundreds of earmarks that represent no-bid contracts to private companies, that we allow amendments to come to the floor to examine some of these instead of sweeping the process under the rug and hoping that nobody pays attention."

Ms. PINGREE of Maine, was recognized to speak to the point of order and said:

"The gentleman from Arizona has made some eloquent points this morning. And I certainly hope if he really wants to resolve this issue, he will join me in supporting the bill that is in the House right now on public financing. Since both he and I come from States, Arizona and Maine, that have had great success with this system in removing some of the corruption from the process, I think that we could make a good team on that issue.

"But, Mr. Speaker, we know that this point of order is not about unfunded mandates, as he mentioned—or, in fact, even about earmarks. It's about delay-

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ing consideration of this bill and ultimately stopping it altogether.

"Since I do come from the State of Maine, where nearly one-fifth of our residents are veterans or active-duty members of our armed services, I know that this bill we are about to talk about today is extremely important, and passing this rule to allow for consideration of this bill and move forward on these issues around access to health care, making sure our veterans get the benefits that they deserve, is extremely important to the residents of my State and certainly people across this country.

"I hope my colleagues will see through this attempt and will vote 'yes' so that we can consider this legislation on its merits and not stop it with a procedural motion. The last thing that people want to see happening in the House of Representatives is endless conversation about things that have nothing to do with the issues before us but not moving forward with the things that we care about.

"Those who oppose this bill can vote against it on the final passage. We must consider this rule. We must pass this legislation today.

"I urge my colleagues to vote 'yes' to consider this rule."

Mr. FLAKE was further recognized and said:

"I'm not going to call a vote on this. I'm not trying to delay the process. We're just given so little time to speak because we're not allowed to bring amendments to the floor that we have to take every opportunity that we can."

Ms. PINGREE of Maine, was further recognized and said:

"Again, I urge my colleagues to vote 'yes' on this motion to consider so that we can debate and pass this important legislation today."

After debate,

The question being put, viva voce,

Will the House now consider the resolution?

The SPEAKER pro tempore, Mr. WEINER, announced that the yeas had it.

So the House decided to consider said resolution.

A motion to reconsider the vote whereby the House decided to consider the resolution was, by unanimous consent, laid on the table.

POINT OF ORDER

(192.7)

PURSUANT TO SECTION 426(B)(4) OF THE CONGRESSIONAL BUDGET ACT OF 1974, A MEMBER WHO MAKES A POINT OF ORDER UNDER SECTION 426(A) OF THE ACT AND SATISFIES THE THRESHOLD BURDEN SPECIFIED IN SECTION 426(B)(2) OF THE ACT BY CITING LANGUAGE IN THE RESOLUTION THAT WAIVES THE APPLICATION OF SECTION 425 OF THE ACT IS RECOGNIZED TO CONTROL ONE-HALF OF THE 20 MINUTES PROVIDED FOR DEBATE ON THE QUESTION OF CONSIDERATION.

PURSUANT TO SECTION 426(B)(3) OF THE CONGRESSIONAL BUDGET ACT OF 1974, AS DISPOSITION OF A POINT OF ORDER RAISED UNDER SECTION 426(A) OF THE ACT, THE CHAIR PUTS THE QUESTION OF CONSIDERATION WITH RESPECT TO THE PROPOSITION THAT IS THE OBJECT OF THE POINT OF ORDER.

On July 15, 2009, Mr. FLAKE made a point of order against the resolution and said:

"Mr. Speaker, I raise a point of order against consideration of the rule because the resolution violates section 426(a) of the Congressional Budget Act.

"The resolution contains a waiver of all points of order against consideration of the bill, which includes a waiver of section 425 of the Congressional Budget Act which causes a violation of section 426(a)."

The SPEAKER pro tempore, Mr. ALTMIRE, responded to the point of order, and said:

"The gentleman from Arizona makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

"The gentleman has met the threshold burden under the rule and the gentleman from Arizona and a Member opposed each will control ten minutes of debate on the question of consideration. After that debate, the Chair will put the question of consideration."

Mr. FLAKE was further recognized and said:

"Mr. Speaker, we are going through an appropriations process. We will do two bills this week. Traditionally, appropriations bills have been open rules. They come to the floor. Members are allowed to offer as many amendments as they wish—striking funding, moving funding around, making a policy point. That has been the tradition of this House.

"It is sometimes pointed out that it hasn't always been this way, that the appropriations bills haven't always been open, and that there is no reason why they should be. Yet I would remind the House, Mr. Speaker, that, over the past 20 years, we've gotten into a practice of loading up and larding up these appropriations bills with all kinds of congressionally directed spending.

"The chairman of the Appropriations Committee likes to say that, when he chaired the Appropriations Committee in 1992, when the Labor-HHS bill came through, there was not one congressional earmark, not one. That's less than 20 years ago. There was not one congressional earmark. I think, in the past couple of years, there have been upwards of 2,500 earmarks in that bill. In the bill that we'll address today, the energy and water bill, there are literally hundreds of earmarks.

"Now, one would like to think that the Appropriations Committee would vet these earmarks, would actually check them out to see if they're meeting Federal purpose, if money is being wasted, if it, maybe, looks bad and

looks like it's tied to campaign contributions or whatever, but they don't. They don't have the time or the resources or, perhaps, the inclination to do so, so all we have is this forum here on the floor. When you bring an appropriations bill to the floor under a closed rule or a restricted rule—a structured rule—and deny Members the ability to offer amendments, then you've shut down this place in a way that is simply not right.

"For this bill, there were 103 amendments submitted. Now, because you have to pre-file your amendments, a lot of Members will submit more amendments than they intend to offer on the floor just to protect their place. So the majority party knows that we would never have offered 103 amendments on the floor. We won't have time to do it. We have done it in years past, but only 21 of these remained in order—78 Republican amendments were submitted, and only 14 were made in order."

Mr. GINGREY was recognized to speak to the point of order and said:

"Mr. Speaker, as my colleagues on both sides of the aisle know, I just called previously for a motion to adjourn this body. I don't typically do dilatory motions. I think my colleagues on both sides of the aisle know that. What, Mr. Speaker, I am trying to say to those who are now in charge of this body—Speaker PELOSI, Majority Leader HOYER, the chairman of the Rules Committee—is, look, as the gentleman from Arizona has pointed out, you have taken away so many opportunities—not, indeed, all of the opportunities—for the minority to represent their constituencies. Those constituencies are close to 700,000 people in all of our districts across this country, and we don't have this opportunity, particularly on these very important appropriations bills—on these 12 spending bills—which, after all, are probably one of the two most important things that we as Members of the legislative branch are charged constitutionally to do year after year after year.

"I commend the majority for wanting to get the work done and for wanting to have all of that done by the end of the fiscal year. It's insanity not to do that, but we can do it in an open way, as the gentleman from Arizona has pointed out. Going back to the fairness that you all called for when you were campaigning so hard in the fall of 2006, you gained the majority, to a large extent, on that kind of a platform and on that kind of a pledge. So this is wrong, and this is why we're making these points."

Ms. MATSUI was recognized to speak to the point of order and said:

"Technically, this point of order is about whether or not to consider this rule and, ultimately, the underlying bill. In reality, it is about trying to block this bill without any opportunity for debate and without any opportunity for an up-or-down vote on the legislation, itself.

"I think that is wrong, and I hope my colleagues will vote to consider this

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important legislation on its merits and not stop it on a procedural motion. Those who oppose the bill can vote against it on final passage. We must consider this rule, and we must pass this legislation today.

"I have the right to close, but in the end, I will urge my colleagues to vote 'yes' so that we can consider the rule and get down to doing the business of the American people."

Mr. FLAKE was further recognized and said:

"Mr. Speaker, I realize that this is an unfunded mandates point of order that has been raised. This is not unfunded mandates we're talking about here. Unfortunately, this is about the only way we can get time to actually talk about this rule at sufficient length.

"As to the way that these appropriations bills are being shut down for Members and when the gentlelady said that this bill should be voted on according to its merits, the problem is there were dozens and dozens of meritorious amendments that were submitted to the Rules Committee. The fact that they actually had to be submitted tells us we've got some problems here because, as I mentioned, appropriations bills have traditionally been open, but meritorious amendments have been submitted, and only a few have been allowed.

"Now, I happen to have six, I believe, allowed in this bill, and I know full well the game here. I offer limitation amendments on earmarks. The majority party knows full well that earmarking is a bipartisan addiction and that the process of logrolling takes effect and that my amendments are defeated routinely. So they can throw me a bone here and there, and that's fine. I understand that. Still, we need to raise these issues. Let me tell you why.

"This was in the Washington Post today, and you can look yesterday in Roll Call or in The Hill from the day before. Virtually every day there is a news story about earmarks having gone awry. This one in particular talks about defense earmarks, that there are some individuals in the lobbying community and in the defense community who have pled guilty to taking earmarks from this body and to spreading them around to several contractors who didn't do the work that they promised to do. Some actually took kickbacks for the earmark money they distributed. These were earmarks that were supposedly vetted by the Appropriations Committee, but we know that the Appropriations Committee doesn't have the time or resources to vet these earmarks.

"We're going to be doing a defense appropriations bill in just a couple of weeks. We've allowed one day for that bill to be on the floor, and if history holds, only a couple of amendments will be allowed, particularly amendments to strike earmarks. If on this floor we are not going challenge these earmarks, where are we going to do it?"

"They're not doing it in the Appropriations Committee. From sad experi-

ence, we know that. Over the past several years, the chairman of the Appropriations Committee has said they don't have the time or the resources to adequately vet these earmarks, so we have two choices. We ought to have two choices. Either strike the earmarks and not bring the bill to the floor with congressional earmarks in there or have proper time to vet them on the floor. Or simply say that we're not going to allow them at all until we get this process fixed. Instead, what we've chosen to do is to cover up the process and to pretend that there is no problem here and to simply limit the number of amendments that can be offered on the floor and hope that nobody notices, that nobody sees.

"What happens when nobody sees—last year, for example, we weren't allowed to offer any amendments on the floor. The defense appropriations bill was offered as part of a 'minibus', and no amendments were offered at all. Then we get stories like this. Let me just quote one paragraph from this story:

"It really puts a fine point on the murky unaccountable web that exists around earmarks, said Steve Ellis of the watchdog group Taxpayers for Common Sense. These earmarks, because there is very little accountability, provide a petri dish for corruption.

"Certainly, that is what we've seen over the past several years, but we are not allowing adequate time on the floor to vet what will be likely over 1,000 earmarks or close to it—if there are not 1,000, there will be several hundred—in the defense bill that's going to be coming up.

"What is worse is that hundreds of these earmarks that will be in the defense bill will be given to companies whose executives will turn around and will write large campaign contributions to the sponsor of the earmark in the bill. So, essentially, we are earmarking for our campaign contributors.

"I think we should all agree that, if there are earmarks in this body, they certainly shouldn't be going to those who can turn around and can then make a campaign contribution directly back to them. To give a Federal appropriation a no-bid contract—and that's what earmarks are, particularly in the defense bill, no-bid contracts—to somebody who can turn around and write a campaign contribution right back to you is wrong.

"What makes it doubly wrong is that now, in the House, we are going to tell Members you can't even challenge those earmarks on the floor because we're going to limit you to three or four amendments. Choose them. That's it. That, Mr. Speaker, is wrong. We can't continue to do that. People say that, outside of the Beltway, nobody cares about process. That may be true, but take it from somebody who was in the majority and who is now in the minority, who is squarely in the minority: Bad process yields bad results, and

it will catch up to you sooner or later. What is worse is that what we're doing, particularly with earmarks in the defense bill, reflects poorly on this House.

"The cloud that hangs over this body rains on Republicans and Democrats alike; and we ought to stand up to the institution and say, We think more of this institution than that to have this cloud out there. So I would plead with everyone, Mr. Speaker, to not proceed with bills like this which don't allow Members to offer amendments on the floor, the amendments that are meritorious, that are not trying to slow down the process. They are simply trying to improve the bill."

Ms. MATSUI was further recognized and said:

"Mr. Speaker, again I want to urge my colleagues to vote 'yes' on this motion to consider so that we can debate and pass this important piece of legislation today."

After debate,

The question being put, viva voce,

Will the House now consider the resolution?

The SPEAKER pro tempore, Mr. ALTMIRE, announced that the yeas had it.

So the House decided to consider said resolution.

A motion to reconsider the vote whereby the House decided to consider the resolution was, by unanimous consent, laid on the table.

POINT OF ORDER

(193.5)

PURSUANT TO SECTION 426(B)(4) OF THE CONGRESSIONAL BUDGET ACT OF 1974, A MEMBER WHO MAKES A POINT OF ORDER UNDER SECTION 426(A) OF THE ACT AND SATISFIES THE THRESHOLD BURDEN SPECIFIED IN SECTION 426(B)(2) OF THE ACT BY CITING LANGUAGE IN THE RESOLUTION THAT WAIVES THE APPLICATION OF SECTION 425 OF THE ACT IS RECOGNIZED TO CONTROL ONE-HALF OF THE 20 MINUTES PROVIDED FOR DEBATE ON THE QUESTION OF CONSIDERATION.

PURSUANT TO SECTION 426(B)(3) OF THE CONGRESSIONAL BUDGET ACT OF 1974, AS DISPOSITION OF A POINT OF ORDER RAISED UNDER SECTION 426(A) OF THE ACT, THE CHAIR PUTS THE QUESTION OF CONSIDERATION WITH RESPECT TO THE PROPOSITION THAT IS THE OBJECT OF THE POINT OF ORDER.

On July 16, 2009, Mr. FLAKE made a point of order against the resolution and said:

"Madam Speaker, I raise a point of order against consideration of the rule because the resolution violates section 426(a) of the Congressional Budget Act.

"The resolution contains a waiver of all points of order against consideration of the bill, which includes a waiver of section 425 of the Congressional Budget Act which causes a violation of section 426(a)."

The SPEAKER pro tempore, Ms. EDWARDS of Maryland, responded to the point of order, and said:

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"The gentlemen from Arizona makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

"The gentlemen has met the threshold burden under the rule and the gentleman from Arizona and a Member opposed each will control ten minutes of debate on the question of consideration. After that debate, the Chair will put the question of consideration."

Mr. FLAKE was further recognized and said:

"I rise today once again to plead with the majority party to lift the legislative version of martial law that's been imposed on appropriation bills this year.

"We're more than halfway through the season and so far we've had, for appropriation bills, more than 700 amendments have been filed with the Rules Committee. Only 119, or less than 20 percent, have been made in order. Roughly a quarter of them that have been made in order have been my earmark amendments, which I'm pleased for. Don't get me wrong. I'm grateful they're made in order.

"But these earmarks, this is about the only vetting, as shallow as it may be, on the floor of the House that these earmarks get, because they're certainly not getting the vetting they deserve in the Appropriations Committee. But this is insufficient.

"It's not right to have a legislative version of martial law on appropriation bills and to bring up the issue of timing, to say, We don't have time to deal with all the amendments that have been offered, as was demonstrated yesterday when I asked unanimous consent five times—five times—to simply swap out an amendment that was not ruled in order by the Rules Committee—that was germane, just not ruled in order—for one of mine that would have been given.

"It wouldn't have taken any extra time. We would have been under the same time constraints of the bill. So we would be living within the time constraints that the majority party has laid down.

"But the majority party simply wouldn't allow it, because this isn't about time. We adjourned or we were finished with legislative business by around four o'clock yesterday. We were finished with amendments by five o'clock. Members were free to go after the last amendment votes around four o'clock.

"This isn't an issue of time. But say that it was. If it was an issue of time, then allowing amendments to be swapped and substituted or amendments to be modified within the time limit should be allowed.

"But instead, the majority party simply doesn't want to deal with certain amendments. They don't want their members to vote on certain amendments. That's what is at issue here.

"As a result, the votes on amendments on these appropriation bills have all the excitement and anticipation of

a Cuban election. You know the result. It's going to be lopsided or it's agreed to in advance.

"That may be efficient. The trains may run on time. But it isn't the legislative process that we're used to here. Traditionally, appropriation bills have been brought to the floor under an open rule. That's always been important.

"It's become even more important over the last several years when we placed in those bills literally thousands and thousands and thousands of appropriation requests by individual Members, many of them no-bid contracts—Members awarding no-bid contracts to private companies and, in many cases, their campaign contributors, with virtually no vetting in the Appropriations Committee.

"So the only opportunity we have to vet those is here on the House floor, and then Members are denied the opportunity in many cases to bring those amendments to the floor. That simply is not right.

"Let me take the bill that we will be dealing with today and give a few examples. In the Rules Committee under this rule that we're dealing with now, many amendments were offered, as I mentioned, and they were submitted as requested by the Rules Committee, pre-submitted, which we didn't even used to have to do with appropriation bills, but we can accept that. These were submitted—and many of these were turned down.

"For example, one was to make in order to provide the appropriate waivers for amendment 87 offered by Representative BOEHNER, the minority leader, which would ensure that low-income D.C. students are able to receive a scholarship through the D.C. Opportunity Scholarship Program by removing the requirement that students must be OSP recipients during the 2009-2010 school year.

"This would simply allow the D.C. voucher program—the highly popular D.C. voucher program—to continue. This is not something that is not germane. It is germane. This is the bill that deals with D.C. appropriations. But the majority party simply didn't want to vote on that. And so they rejected it, and it's out.

"Later today, I will be asking for unanimous consent to substitute this amendment for one of mine that I have been fortunate enough to have made in order. It won't take any additional time.

"So time is not an issue. It's simply saying that we should be able to vote on amendments that Members want to vote on, not just those amendments that the majority leadership wants us to vote on; to lift martial law on appropriation bills, if only for a brief window, for the appropriation bills that we have still to consider.

"Another amendment—I see Mr. WALDEN here—that he has offered. The Walden-Pence amendment would prohibit funds from being available in the act from being used to implement the

fairness doctrine and certain broadcast localism regulations."

Mr. WALDEN of Oregon, was recognized to speak to the point of order and said:

"I appreciate the gentleman raising this point of order and yielding. How ironic; the amendment we offered in good faith, after consideration with the parliamentarians, is fully in order under our House rules normally, except for the gag order that's been placed on us by the Rules Committee.

"How ironic; we're trying to stand up and protect First Amendment free speech rights for American citizens and broadcasters to be able to discuss political issues and religious issues on America's airwaves, protect that right as the House did in 2007 with a 309-115 bipartisan vote.

"We're talking about free expression, First Amendment rights, privileges that American citizens have enshrined, and the Democrat leadership of this Congress has conspired to prevent us from even allowing that amendment to be debated on this House floor and voted on. And yet, when it was brought before this House in 2007, 309 Members voted 'yes.' It was a 3-1 margin that stood up for free speech and to protect free speech on America's airwaves, to protect the rights of religious broadcasters to engage in their discussions on America's airwaves.

"Members of both parties supported this. And yet today, sometimes I feel like we're more an Iranian-style democracy, where all these rules that have been in place for many, many years in this House, historically back to its inception, that allow for open and vigorous debate on our House floor, have been now twisted and turned and crammed down to the fact that you're gagged. I'm gagged, the people we represent are gagged. It is simply outrageous that this is occurring.

"We should be able to offer these amendments, as we have historically, in Republican and Democrat Congresses in the past. This is nearly unprecedented in the scope of clamping down on our ability to represent our constituents and in our ability to raise these issues on the floor of this great institution, of this democratic institution, where free speech and the opportunity to debate public policy issues are enshrined.

"What has this House come to?"

Mr. PERLMUTTER was recognized to speak to the point of order and said:

"I oppose the gentleman's point of order.

"Madam Speaker, once again, this point of order is not about unfunded mandates. It's about TV broadcasting and about a whole variety of other things, but it's about delaying the bill that is under consideration and about, ultimately, stopping it. I hope my colleagues see through this attempt and will vote 'yes' so we can consider this legislation on its merits and not stop it on a procedural motion. Those who oppose the bill can vote against it on final passage. We must consider this

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rule today, and we must pass this legislation.

"I have the right to close, but in the end, I will urge my colleagues to vote 'yes' to consider the rule."

Mr. FLAKE was further recognized and said:

"Madam Speaker, yes, this isn't about unfunded mandates. Unfortunately, it's about the only opportunity we have to stand up, and we'll stand up later when the rule is discussed, but I'm here because the Rules Committee would not make in order the amendments that Members wanted to offer on an appropriations bill.

"These are bills that are brought to the floor under open rules, traditionally, to allow Members the opportunity to represent their constituencies; but here we're being gagged and told we can't do that because we're only going to allow the amendments that we want to hear, the ones that are non-controversial, the ones that we have debated before and that we know won't impact negatively on us. That's not any way to run this body."

Mr. WALDEN of Oregon, was further recognized and said:

"If you want to talk about how this body is being run, in the Energy and Commerce Committee yesterday, the best we could get on the Democrats' health plan was a closed-door briefing from the Congressional Budget Office that was only open to members of our staff and to no other staff and to no other citizens, and it was shut down to the press. Now, I find that outrageous.

"So not only is this occurring on the amendments we hope to bring that are fully within the scope of the rules of this House and that have been well vetted—and you can smile. I get it. You guys are in control. You're going to win. You've got the votes. You can shut us down. Yet, at the end of the day, the American people get it, and they get that bills are being rammed through here without due consideration and process and that Members on both sides of the aisle are having their amendments shut down, and they're not even being allowed to be considered.

"I've been here for 10 years now. I remember, during appropriations season, we worked hard. We worked day and night, sometimes a lot longer than I'd wished we'd worked, but Members had the right under our rules to bring amendments forward that were within the constraints of the rules of this House and within the historic principles of this House. We had vigorous debates and we took tough votes. Then we went back and we defended those votes."

Mr. PERLMUTTER was further recognized and said:

"Madam Speaker, I appreciate the gentleman's comments, but they did not speak to the point of order at all. So, Madam Speaker, again, I want to urge my colleagues to vote 'yes' on this motion to consider so we can debate and pass this important legislation."

After debate,

The question being put, viva voce, Will the House now consider the resolution?

The SPEAKER pro tempore, Ms. EDWARDS of Maryland, announced that the yeas had it.

So the House decided to consider said resolution.

A motion to reconsider the vote whereby the House decided to consider the resolution was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶93.56)

AN AMENDMENT PROPOSED IN A MOTION TO RECOMMIT A GENERAL APPROPRIATION BILL STRIKING THE WORD "FEDERAL" IN A FUNDING LIMITATION WITH LEGISLATIVE EXCEPTIONS AND THEREBY BROADENING THE LEGISLATIVE EXCEPTIONS TO INCLUDE THE DISTRICT OF COLUMBIA IS LEGISLATION IN VIOLATION OF CLAUSE 2 OF RULE XXI AND WAS RULED OUT.

THE HOUSE LAID ON THE TABLE AN APPEAL FROM THE RULING OF THE SPEAKER PRO TEMPORE.

On July 16, 2009, Mr. SERRANO made a point of order against the motion and said:

"Mr. Speaker, I make a point of order against the motion under clause 2 of rule XXI. Although the instructions in the motion propose to amend a legislative limitation permitted to remain, it does not propose to merely perfect that language, but adds further legislation.

"The instructions would broaden the application of the provision to include the District of Columbia funds and would not be in order under clause 2 of rule XXI.

"And I ask for a ruling from the Chair."

Mr. TIAHRT was recognized to speak to the point of order and said:

"Mr. Speaker, first of all, this is a restriction of funds on this amendment. So I think it should be considered as in order on that.

"But further, we have a constitutional requirement to oversee the expenditure of funds in the District of Columbia. It has been said that we are sidestepping our responsibility, or overstepping our responsibility by becoming mayor and city council member for the District of Columbia. But, in fact, we have a constitutional requirement to deal with the finances of the District of Columbia.

"We also have many people who have asked to have an opportunity to reduce the number of abortions. So in your point of order, it's very clear that since it's a restriction of funds, since we have had so many people ask for a clean vote on this, that I would urge the Speaker to make this motion to recommit in order so that we can have this clean, up-or-down vote on the restriction of funds on this spending bill."

The SPEAKER pro tempore, Mr. WEINER, sustained the point of order, and said:

"Under settled precedent, where legislative language is permitted to remain in a general appropriation bill, a germane amendment merely perfecting that language and not adding further legislation is in order, but an amendment effecting further legislation is not in order.

"The amendment proposed in the instant motion to recommit offered by the gentleman from Kansas is unlike the amendment addressed in the precedent of May 25, 1959, recorded in Deschler's Precedents at volume 8, chapter 26, section 22.11, which was held in order as merely perfecting because it simply narrowed the sweep of a limitation in the bill.

"Instead, the precedent of November 15, 1989, recorded in section 1054 of the House Rules and Manual, is more pertinent. Indeed, the 1989 precedent is controlling. In that situation, as here, a legislative provision applicable to Federal funds—a limitation adorned with legislative exceptions—was permitted to remain in the general appropriations bill including funding for the District of Columbia. An amendment striking the word "Federal" was held to broaden the legislative provision to address District of Columbia funds as well.

"On these premises, the Chair holds that the amendment proposed in the motion to recommit—even if it had been considered in the Committee of the Whole—presents a violation of clause 2(c) of rule XXI. The point of order is sustained. The motion is not in order."

Mr. TIAHRT appealed the ruling of the Chair.

The question being stated, Will the decision of the Chair stand as the judgment of the House?

Mr. SERRANO moved to lay the appeal on the table.

The question being put, viva voce, Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER pro tempore, Mr. WEINER, announced that the yeas had it.

Mr. TIAHRT demanded a recorded vote on agreeing to said motion, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 225
affirmative } Nays 195

¶93.57

[Roll No. 570]

So the motion to lay the appeal on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

(¶94.5)

A RESOLUTION PROVIDING THAT A SPECIAL

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ORDER OF BUSINESS RESOLUTION BE AMENDED TO ALLOW CONSIDERATION OF A SPECIFIED AMENDMENT PROPOSES A SPECIAL ORDER OF BUSINESS AND DOES NOT PRESENT A QUESTION OF THE PRIVILEGES OF THE HOUSE.

THE HOUSE LAID ON THE TABLE AN APPEAL FROM THE RULING OF THE SPEAKER PRO TEMPORE.

On July 17, 2009, Mr. WALDEN of Oregon, rose to a question of the privileges of the House and submitted the following resolution:

Whereas the gentleman from Oregon, Mr. Walden, submitted an amendment to the Committee on Rules to H.R. 3170, the Financial Services and General Government Appropriations Act;

Whereas the said gentleman's amendment would have protected the free speech rights of broadcasters and American citizens by prohibiting funds made available in the Act from being used to implement the Fairness Doctrine and certain broadcast localism regulations,

Whereas a similar amendment was adopted by the House in 2007 during consideration of H.R. 2829, the Financial Services and General Government Appropriations Act, 2008 by a vote of 309 yeas and 115 nays, and became law, but the Democratic leadership allowed the provision to expire;

Whereas the gentleman's amendment complied with all applicable Rules of the House for amendments to appropriations measures and would have been in order under an open amendment process; but regrettably the House Democratic leadership has dramatically and historically reduced the opportunity for free speech on this Floor, and

Whereas the Speaker, Mrs. Pelosi, the Democratic leadership, and the chairman of the Committee on Appropriations, Mr. Obey, prevented the House from voting on the amendment by excluding it from the list of amendments made in order under the rule for the bill: Now, therefore, be it

Resolved, That H. Res. 644, the rule to accompany H.R. 3170, be amended to allow the gentleman from Oregon's amendment be considered and voted on in the House.

The SPEAKER pro tempore, Ms. JACKSON-LEE of Texas, ruled that the resolution submitted did not present a question of the privileges of the House under rule IX, and said:

"In evaluating the resolution offered by the gentleman from Oregon under the standards of rule IX, the Chair must be mindful of a fundamental principle illuminated by annotations of precedent in section 706 of the House Rules and Manual. The basic principle is that a question of the privileges of the House may not be invoked to prescribe a special order of business for the House.

"The Chair finds that the resolution offered by the gentleman from Oregon, by proposing directly to amend House Resolution 644, prescribes a special order of business. Under a long and well-settled line of precedent presently culminating in the ruling of July 9, 2009, such a resolution cannot qualify as a question of the privileges of the House.

"The Chair therefore holds that the resolution is not privileged under rule IX for consideration ahead of other business. Instead, the resolution may be submitted through the hopper in the regular course."

Mr. WALDEN of Oregon, appealed the ruling of the Chair.

The question being stated, Will the decision of the Chair stand as the judgment of the House?

Mr. MCGOVERN moved to lay the appeal on the table.

The question being put, viva voce, Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER pro tempore, Ms. JACKSON-LEE of Texas, announced that the yeas had it.

Mr. WALDEN of Oregon, demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 238 affirmative } Nays 174

¶94.6 [Roll No. 573]

So the motion to lay the appeal on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

(¶97.5)

A RESOLUTION ALLEGING A RELATIONSHIP BETWEEN CAMPAIGN CONTRIBUTIONS AND REQUESTS BY MEMBERS FOR APPROPRIATIONS, AND DIRECTING THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO INVESTIGATE SUCH RELATIONSHIP, PRESENTS A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

THE HOUSE LAID ON THE TABLE A RESOLUTION CONSIDERED AS A QUESTION OF THE PRIVILEGES OF THE HOUSE.

On July 22, 2009, Mr. FLAKE, rose to a question of the privileges of the House and submitted the following resolution (H. Res. 667):

Whereas, The Hill reported that a prominent lobbying firm, founded by Mr. Paul Magliocchetti and the subject of a "federal investigation into potentially corrupt political contributions," has given \$3.4 million in political donations to no less than 284 members of Congress.

Whereas, the New York Times noted that Mr. Magliocchetti "set up shop at the busy intersection between political fund-raising and taxpayer spending, directing tens of millions of dollars in contributions to lawmakers while steering hundreds of millions of dollars in earmarks contracts back to his clients."

Whereas, a guest columnist recently highlighted in Roll Call that "... what [the firm's] example reveals most clearly is the potentially corrupting link between campaign contributions and earmarks. Even the most ardent earmarkers should want to avoid the appearance of such a pay-to-play system."

Whereas, multiple press reports have noted questions related to campaign contributions made by or on behalf of the firm: including questions related to "straw man" contributions, the reimbursement of employees for political giving, pressure on clients to give, a suspicious pattern of giving, and the timing of donations relative to legislative activity.

Whereas, Roll Call has taken note of the timing of contributions from employees the firm and its clients when it reported that they "have provided thousands of dollars worth of campaign contributions to key Members in close proximity to legislative activity, such as the deadline for earmark request letters or passage of a spending bill."

Whereas, the Associated Press highlighted the "huge amounts of political donations" from the firm and its clients to select members and noted that "those political donations have followed a distinct pattern: The giving is especially heavy in March, which is prime time for submitting written earmark requests."

Whereas, clients of the firm received at least three hundred million dollars worth of earmarks in fiscal year 2009 appropriations legislation, including several that were approved even after news of the FBI raid of the firm's offices and Justice Department investigation into the firm was well known.

Whereas, after a cursory review, the fiscal year 2010 defense appropriations earmark list recently made available includes at least seventy earmarks worth hundreds of millions of dollars for former PMA clients.

Whereas, the Associated Press reported that "the FBI says the investigation is continuing, highlighting the close ties between special-interest spending provisions known as earmarks and the raising of campaign cash."

Whereas, the persistent media attention focused on questions about the nature and timing of campaign contributions related to the firm, as well as reports of the Justice Department conducting research on earmarks and campaign contributions, raise concern about the integrity of Congressional proceedings and the dignity of the institution.

Now, therefore, be it: Resolved, That the Committee on Standards of Official Conduct shall immediately establish an investigative subcommittee and begin an investigation into the relationship between the source and timing of past campaign contributions to Members of the House related to the raided firm and earmark requests made by Members of the House on behalf of clients of the raided firm.

The SPEAKER ruled that the resolution submitted did present a question of the privileges of the House under rule IX.

Mr. ANDREWS moved to lay the resolution on the table.

The question being put, viva voce, Will the House lay the resolution on the table?

The SPEAKER pro tempore, Mr. WEINER, announced that the yeas had it.

Mr. FLAKE demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 224 affirmative } Nays 189 Answered present 14

¶97.6 [Roll No. 605]

So the motion to lay the resolution on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

QUESTIONS OF ORDER

POINT OF ORDER

(¶98.10)

PURSUANT TO SECTION 426(B)(4) OF THE CONGRESSIONAL BUDGET ACT OF 1974, A MEMBER WHO MAKES A POINT OF ORDER UNDER SECTION 426(A) OF THE ACT AND SATISFIES THE THRESHOLD BURDEN SPECIFIED IN SECTION 426(B)(2) OF THE ACT BY CITING LANGUAGE IN THE RESOLUTION THAT WAIVES THE APPLICATION OF SECTION 425 OF THE ACT IS RECOGNIZED TO CONTROL ONE-HALF OF THE 20 MINUTES PROVIDED FOR DEBATE ON THE QUESTION OF CONSIDERATION.

PURSUANT TO SECTION 426(B)(3) OF THE CONGRESSIONAL BUDGET ACT OF 1974, AS DISPOSITION OF A POINT OF ORDER RAISED UNDER SECTION 426(A) OF THE ACT, THE CHAIR PUTS THE QUESTION OF CONSIDERATION WITH RESPECT TO THE PROPOSITION THAT IS THE OBJECT OF THE POINT OF ORDER.

On July 23, 2009, Mr. FLAKE made a point of order against the resolution and said:

“Madam Speaker, I raise a point of order because the resolution violates section 426(a) of the Congressional Budget Act. The resolution contains a waiver against all points of order in the Congressional Budget Act which causes a violation of rule 426(a).”

The SPEAKER pro tempore, Ms. JACKSON-LEE of Texas, responded to the point of order, and said:

“The gentleman from Arizona [Mr. FLAKE] makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

“The gentleman has met the threshold burden to identify the specific language in the resolution on which the point of order is predicated. Such a point of order shall be disposed of by the question of consideration.

“Pursuant to section 426(b)(3) of the Act, after debate, the Chair will put the question of consideration, to wit: ‘Will the House now consider the resolution?’”

Mr. FLAKE was further recognized and said:

“Again, I rise today not because this bill may or may not violate the Unfunded Mandates Act—it may or it may not. The question here is why, again, and we’re near the end of the appropriations cycle and we’ve been living under what is the equivalent of legislative martial law, where the majority has stated that they cannot allow appropriation bills to come to the floor because we have to get through this process. We have to move through it. The Appropriations Committee chairman said, There is a limited numbers of hours between now and the time we recess. If we want to get our work done, we have to limit the debate time that we spend on these bills.

“Now, appropriating is one of the most—if not the most important—thing that Congress does. We maintain the power of the purse under article 1. This is our responsibility. And to say that we’ve got to move through it quickly and so we have to deny the mi-

nority party the ability to offer the amendments it wants to offer simply because we have to make the trains run on time here.

“When the Republicans were in the majority, one Member said the other day that he was in the chair for over 3 days on the interior bill simply because Members on the majority side and the minority side had a lot of amendments they wanted to offer—3 days on the interior bill. Here we’re allowing just an afternoon on the THUD bill. We’re allowing just less than a day on the defense bill next week that contains more than a thousand earmarks that haven’t been vetted by the Appropriations Committee, 540 of which are no-bid contracts to private companies. And we aren’t allowing probably but a few, if history holds, amendments to that bill. And they will likely be amendments that the majority chooses.

“Last week, on a previous appropriation bill, I asked for unanimous consent 16 times on 16 amendments that I had to allow us to substitute an amendment that one of my colleagues had offered that was not allowed.

“So making the point that this isn’t an issue of time; the time constraints were already set. We simply wanted to substitute amendments that we thought were maybe more important, that Members were denied the ability to offer, and we were rejected. Objection was raised 16 times to unanimous consent requests simply to substitute amendments. So we know what this is about. It’s not about an issue of time, although that is a sorry excuse, frankly. When appropriating dollars is the most important thing we do here, we shouldn’t limit ourselves to just a few days to get the appropriations process done on the floor.

“But even if you accept that, the minority party simply wanted to offer the amendments it wanted to offer, not the ones that the majority party had chosen for the minority party to offer and were denied 16 times. And here again today we’re going to be discussing a bill. More than 70 amendments were offered to the Rules Committee. Only, I believe, 24 were ruled in order. We just had four or five Members offer privileged resolutions to make the point that their amendments, which were germane, which should have been allowed, were not allowed by the minority party.

“Madam Speaker, this isn’t the way this House ought to be run. We’re breaking from tradition here with the appropriations process, and at a time when we need more than ever to scrub these appropriations bills and make sure we’re not spending money that we shouldn’t be spending. We have a deficit that will near \$2 trillion this year. When I came to Congress just 8 years ago, that was almost the entire Federal budget. Now our budget deficit will equal that amount, and yet we’re throwing appropriation bills at the floor and saying got to get them done in 1 day and not allow the minority

party to offer the amendments that it would like to offer.

“I would submit that while the majority party may think that they can get away with it because process arguments don’t mean much outside the Beltway, I can see that. But a bad process begets bad policy, and sooner or later, it will come back to bite. And it just doesn’t come back to bite the majority party; it comes back to haunt this institution. And institutionally, we ought to be better. We ought to have more regard for this institution than to simply break with precedent like this and deny the minority party the ability to offer the amendments I would like to offer.”

Mr. ARCURI was recognized to speak to the point of order and said:

“Madam Speaker, I rise in opposition.”

Mr. FLAKE was further recognized and said:

“I want to make the point that I’m not trying to delay the process. I could call a vote and waste 30 minutes. I’m not going to. I know the outcome here. That’s not the point. The gentleman mentioned that I’ve been given a lot of amendments. I have, but it is only because the majority knows that they can beat them. And when I’ve offered to substitute some of my colleagues’ amendments that were germane that simply weren’t ruled in order, objection was raised 16 times to do that. So this isn’t about time. This is about the majority wanting only the amendments that it wants to see on the floor.”

Mr. ARCURI was further recognized and said:

“Madam Speaker, this point of order is not about anything other than delaying the passage of this very important bill. And I would say to my friend from Arizona, that he, himself, has probably received more amendments from the Rules Committee than the rest of Congress put together. So he certainly has had an opportunity to offer many amendments with respect to different earmarks that he feels should be removed from the bill.

“So I would submit that this point of order is really about delaying the passage of what is a critically important bill, and that is the transportation appropriation bill, a bill that talks about things like funding roads so that we have safe highways for our families to travel on, things like high-speed rail so we can bring people and goods from point A to point B as quickly as possible. That’s what we’re here to discuss today. That’s why the passage, the consideration of this rule and the passage of this rule, is so important, so we may consider this critically important bill.

“I hope my colleagues will vote ‘yes’ so we can consider this legislation on its merits and not stop it by virtue of a procedural motion. Those who oppose the bill can vote against the final passage. We must consider this rule, and we must pass this legislation today.”

After debate,

The question being put, viva voce,

QUESTIONS OF ORDER

Will the House now consider said resolution?

The SPEAKER pro tempore, Ms. JACKSON-LEE of Texas, announced that the yeas had it.

So, the House decided to consider said resolution.

A motion to reconsider the vote whereby the House decided to consider the resolution was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

(198.11)

A RESOLUTION PROVIDING THAT A BILL BE DISCHARGED FROM COMMITTEE AND BROUGHT BEFORE THE HOUSE PROPOSES A SPECIAL ORDER OF BUSINESS AND DOES NOT PRESENT A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

THE HOUSE LAID ON THE TABLE AN APPEAL FROM THE RULING OF THE SPEAKER PRO TEMPORE.

On July 23, 2009, Mr. NUNES, rose to a question of the privileges of the House and submitted the following resolution:

Whereas, on May 25, 2007, U.S. District Court Judge Oliver W. Wanger issued a ruling that directed the Bureau of Reclamation to reduce water exports from the Sacramento-San Joaquin River Delta to protect a three-inch minnow called the Delta smelt;

Whereas, on December 15, 2008, the United States Fish and Wildlife Service, based on the Wanger Ruling, issued a Biological Opinion on the Delta smelt that permanently reduced water export from the Sacramento-San Joaquin River Delta which is traditionally delivered to cities and farms in the San Joaquin Valley and the Los Angeles and San Diego basins;

Whereas according to a University of California at Davis study, based on the water reductions outlined in the Delta smelt Biological Opinion, revenue losses in the San Joaquin Valley of California for 2009 will be \$2.2 billion and job losses at 80,000;

Whereas according to the U.S. Bureau of Labor Statistics, the unemployment rate in the San Joaquin Valley has reached the highest level in the Nation;

Whereas region wide unemployment in the San Joaquin Valley of California is nearly 20 percent and some cities have an unemployment rate of 40 percent;

Whereas thousands of people who once relied on employment in the agricultural sector are now unemployed and struggling to meet their most basic needs, such as providing food for their families;

Whereas, on March, 1, 2009, the Sacramento Bee reported thousands of people have been turned away from local food banks as supplies are not ample enough to meet local needs;

Whereas, on April 14, 2009, the Fresno County, California, Board of Supervisors proclaimed that the man-made drought has created an economic crisis;

Whereas on June 4, 2009, despite the ongoing man-made drought in California, the National Marine Fisheries Service issued a new Biological Opinion on the spring-run Chinook salmon, Central Valley steelhead, the southern population of North American green sturgeon, and Southern Resident killer whales which further reduces water supplies to Californians;

Whereas, on June 19, 2009, California's Governor Arnold Schwarzenegger declared a

state of emergency for Fresno County, California, and petitioned President Barack Obama to declare the county a Federal disaster area;

Whereas on June 28, 2009, the Secretary of the Interior Ken Salazar visited Fresno, California, and held a town hall meeting in which nearly 1,000 people attended to express their dissatisfaction with the lack of action by the Obama Administration;

Whereas, on July 6, 2009, the Los Angeles Times reported that during Interior Secretary Ken Salazar's town hall meeting on June 28, 2009, the Commissioner of the Bureau of Reclamation, Mike Connor, pledged to provide financial aid to starving families and an audience member replied "we don't want welfare, we want water";

Whereas, on June 29, 2009, CBS 5 Eyewitness News reported that hundreds of San Joaquin Valley farmers protested outside the Federal Building Plaza in San Francisco which houses Speaker Nancy Pelosi's district office;

Whereas, on June 29, 2009, CBS 5 Eyewitness News reported the protestors blamed Speaker Nancy Pelosi and Congressman George Miller for the water shortage in the San Joaquin Valley;

Whereas, on June 29, 2009, CBS 5 Eyewitness News reported that protestors were holding signs that said "ESA Puts Fish Ahead of People", "Congress Created Drought", and "New Endangered Species: The California Farmer";

Whereas, on July 1, 2009, the Fresno Bee reported that a crowd of 4,000 marched through the streets of Fresno, California, to demand that the Federal Government end the man-made drought;

Whereas, on June 18, 2009, the Democrat leadership held open Roll Call Vote 366 for the purpose of changing the outcome of the vote;

Whereas during this vote, House Democrat leadership was seen on the House floor pressuring Members of Congress to change their Aye vote to a Nay vote in order to defeat the Nunes Amendment which would have helped to relieve the water crisis in California;

Whereas, on July 8, 2009, during the mark-up on the Energy and Water Development and Related Agencies Appropriations Act, 2010, a debate was held on the Calvert Amendment which would have restored water deliveries to Californians;

Whereas during the mark-up, the Chairman of the Appropriations Committee, David Obey, said "Recognize there are certain actions, that if you take, this bill won't pass, your earmarks in the bill won't become law";

Whereas Chairman Obey violated Clause 16 of House Rule 23 by linking passage of the Calvert Amendment to loss of earmarks;

Whereas, on July 14, 2009, despite historical tradition of open rules during the appropriations process, the Rules Committee blocked an amendment to the Energy and Water Development and Related Agencies Appropriations Act, 2010 that would have restored water deliveries to Californians;

Whereas, for two years, the House of Representatives has known about the man-made drought in California without taking legislative action to resolve the crisis;

Whereas the lack of action by the House of Representatives has demonstrated that fish are more important than families;

Whereas article 1, section 8 of the United States Constitution enumerates that the Congress shall have the power to provide for the general welfare of the United States;

Whereas the House of Representatives has willfully and knowingly failed to provide for the general welfare of the San Joaquin Valley of California; and

Whereas the failure of the House of Representatives to carry out its duties has sub-

jected the House to public ridicule and damaged the dignity and integrity of the House of Representatives: Now, therefore, be it

Resolved, That the Committee on Natural Resources is instructed to discharge H.R. 3105, the Turn on the Pumps Act of 2009, for immediate consideration by the House of Representatives.

The SPEAKER pro tempore, Ms. JACKSON-LEE of Texas, spoke and said:

"Does the gentleman from California wish to present an argument on why the resolution qualifies as privileged for immediate consideration?"

Mr. NUNES was recognized to speak to the question of privileges of the House and said:

"Under rule IX, questions of the privileges of the House are those that affect its rights collectively, its safety, dignity, and the integrity of its proceedings.

"Madam Speaker, this privileged resolution allows us to rectify the problems that the Democrat leadership has created out in California. If we move forward with this today, 40,000 people can go back to work and we can move on and everybody will be fine.

"So I urge the passing of this resolution today."

The SPEAKER pro tempore, Ms. JACKSON-LEE of Texas, ruled and said:

"In evaluating the resolution offered by the gentleman from California under the standards of rule IX, the Chair must be mindful of a fundamental principle illuminated by annotations of precedent in section 706 of the House Rules and Manual. That basic principle is that a question of the privileges of the House may not be invoked to prescribe a rule or order of business for the House.

"The Chair finds that the resolution offered by the gentleman from California, by directing action with respect to a bill that is pending before a standing committee, prescribes a rule or order of business. Under a long and well-settled line of precedent presently culminating in the ruling of July 17, 2009, such a resolution cannot qualify as a question of the privileges of the House.

"The Chair therefore holds that the resolution is not privileged under rule IX for consideration ahead of other business. Instead, the gentleman may introduce the resolution through the hopper in the regular course."

Mr. NUNES appealed the ruling of the Chair.

The question being stated, Will the decision of the Chair stand as the judgment of the House?

Mr. JACKSON of Illinois, moved to lay the appeal on the table.

The question being put, *viva voce*, Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER pro tempore, Ms. JACKSON-LEE of Texas, announced that the yeas had it.

Mr. NUNES demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of

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the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 249
affirmative } Nays 179

¶98.12 [Roll No. 616]

So the motion to lay the appeal on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶99.8)

PURSUANT TO SECTION 426(B)(4) OF THE CONGRESSIONAL BUDGET ACT OF 1974, A MEMBER WHO MAKES A POINT OF ORDER UNDER SECTION 426(A) OF THE ACT AND SATISFIES THE THRESHOLD BURDEN SPECIFIED IN SECTION 426(B)(2) OF THE ACT BY CITING LANGUAGE IN THE RESOLUTION THAT WAIVES THE APPLICATION OF SECTION 425 OF THE ACT IS RECOGNIZED TO CONTROL ONE-HALF OF THE 20 MINUTES PROVIDED FOR DEBATE ON THE QUESTION OF CONSIDERATION.

PURSUANT TO SECTION 426(B)(3) OF THE CONGRESSIONAL BUDGET ACT OF 1974, AS DISPOSITION OF A POINT OF ORDER RAISED UNDER SECTION 426(A) OF THE ACT, THE CHAIR PUTS THE QUESTION OF CONSIDERATION WITH RESPECT TO THE PROPOSITION THAT IS THE OBJECT OF THE POINT OF ORDER.

On July 24, 2009, Mr. FLAKE made a point of order against the resolution and said:

"Mr. Speaker, I raise a point of order against consideration of the rule because the resolution violates section 426(a) of the Congressional Budget Act.

"The resolution carries a waiver of all points of order against consideration of the bill, which includes a waiver of section 425 of the Congressional Budget Act which causes a violation of section 426(a)."

The SPEAKER pro tempore, Mr. BLUMENAUER, responded to the point of order, and said:

"The gentleman from Arizona makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

"The gentleman has met the threshold burden under the rule and the gentleman from Arizona and a Member opposed each will control ten minutes of debate on the question of consideration. After that debate, the Chair will put the question of consideration."

Mr. FLAKE was further recognized and said:

"Mr. Speaker, I come here today completely baffled at this point. We've had in this appropriations season what can best be described as martial law, in legislative terms, where we've had appropriation bill after appropriation bill come to the floor under a closed rule or a modified structured rule, where the majority party decides which amendments the minority party can offer.

"I suppose they thought it was amusing at first. They claim it was an issue of time. And so some of us on this side that had amendments that were ruled in order asked unanimous consent to be able to substitute other Members' amendments that had not been ruled in order—amendments that were germane—that the majority party simply saw unfit for this party to vote on and debate.

"And 16 times that I have asked for unanimous consent, that unanimous consent has been denied. So it's not an issue of time at all. It's not an issue of time.

"As much as the majority party wants to stand up and say, We've got to get these finished because we have a time limit—for one, it's a pretty sorry excuse. We do appropriations. That's what the Congress does. And to say we've got to get these done in 1 day for the Defense bill next week, one day for Labor-HHS today, but then we find out that that's a ruse in itself, because if we agree to stay within the time constraints, then they still won't allow us to substitute the amendments that we would like to offer.

"On this bill, because the majority party had seen fit to give me several amendments on bills to cut earmarks that they knew would likely not pass because of the logrolling that takes effect here, I decided on this bill, although there were plenty of targets, I believe there were over a thousand earmarks in the bill, I decided not to offer one earmark amendment. So surely, surely the majority party would see fit to allow a few of my colleagues' amendments in order so they couldn't say, Oh, we gave you 10 amendments. Of course, 8 of those were Flake earmark amendments. But we gave you 10.

"So I didn't submit any. Not one. Our party submitted 12 amendments—12 amendments—and we were given 4. Just four amendments. One was given to I think the chairman of the Appropriations Committee and several, my understanding, were rolled into the manager's amendment.

"I would love to hear—and I will retain my time—but hear what the Rules Committee is thinking here, or why they see fit to deny the majority party the ability to offer amendments."

Mr. HASTINGS of Florida, was recognized to speak to the point of order and said:

"Mr. Speaker, my good friend for whom I have great affection began his remarks by saying he's baffled. Well, I'm baffled and befuddled by the many actions that my good friend from Arizona persists in bringing to the floor of the House of Representatives.

"Start with the fact—and the distinguished chair of the Appropriations Committee will outline the particulars of the bill—but start with the fact that there are no unfunded mandates in this particular provision.

"So, once again, this point of order is not about unfunded mandates. It's about trying to block this bill without any opportunity for debate and with-

out any opportunity for an up-or-down vote on the legislation itself.

"I think that's wrong, and I hope my colleagues will vote 'yes' so we can consider this important legislation on its merits and not stop it, as my friend would try to do, on a procedural motion.

"Those who oppose the bill can vote against it on final passage. We must consider this rule, and we must pass this legislation today.

"Now I have the right to close, but in the end I'm going to urge my colleagues to vote 'yes' to consider the rule, and take one final moment to ask my friend to consider what he does when he persists, as is his right as a Member of this body, in coming here repeatedly after every measure that he wishes to put forward.

"What does he think he is doing to the legislative council of this office? There are 441 Members that ought to be able to access that body, and many of us find our legislation at the back of the track for the reason that we are coming here with what amounts to nothing but process motions that everybody has heard.

"We have an expression here—and children use it frequently—'I got the memo.' Or, 'I got it.' We hear him on this particular subject. He can vote on it at any such time, but it is the Rules Committee that makes the determination as to what rules are going to be on the floor of the House of Representatives."

Mr. FLAKE was further recognized and said:

"I think the gentleman doth protest a little too much. We are here on the unfunded mandate thing because it's the only opportunity we've got. We've been shut out of just about everything else. We offered 12 amendments to a bill that typically has dozens and dozens and dozens and which typically we spend a couple of days on. We're told, 'We've got to get it done today, and we're only going to allow four amendments from the other side, and they are the four that we pick.' I mean, what has this legislative body come to? I suppose the gentleman was referring to the 540 amendments that I have offered for the Defense bill. I have offered 540 because that represents the number of no-bid contracts that this body is authorizing for private companies in the Defense bill. That's why there are investigations swirling around this body. Yet we come to the floor and authorize 540—not authorize—we appropriate money for 540 no-bid contracts. So I make no apology at all for offering 540 amendments. But I knew that I didn't want to tie the hands and tie up Legislative Counsel. That's something that I worry about. So we went to them and said, "How can we do this without causing you trouble?" They gave us a template, and we've done it all in our office. My staff and other staffs were up nearly all night last night, making 30 copies of 540 amendments on our own—not taking any of Legislative Counsel's time—just so we could do

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(199.9)

this body and this institution the favor of trying to actually vet some of the earmarks, no-bid contracts for private companies, that come through this body. And then we get scolded for that; and to say, "You're taking up too much time. We've given you four amendments on this bill and you should be happy with it"? These crumbs that fall from the table, the Appropriations Committee and the Rules Committee, just be happy with it. Go on your merry way. It just is baffling. I don't know what else to say. I don't know what else we can do on this side. But bad process always begets bad policy, and it will come back to bite at some point. I just wish the majority party would realize that this martial law on appropriations bills is not justified. You shouldn't do it just because you can."

Mr. HASTINGS of Florida, was further recognized and said:

"Mr. Speaker, I stand duly chastised by my friend from Arizona. I am delighted that he took up his office's time and not the Office of Legislative Counsel's time in order to provide the amendments that I still consider to be spurious. Perhaps it is that he would urge not wasting his staff's time then. But there have been other times, by virtue of the repetition, that Legislative Counsel has been burdened, template or not. There are other Members in this body that exercise that abuse process, including another one that I am watching, and that is the use of privileged motions for purposes of legislating. Assume that every Member in this body wanted to use that prerogative, then we would never be able to get our work done. Yes, it is the responsibility of the majority to see to it that the business of the people of this country moves along.

"I, again, want to urge my colleagues to vote 'yes' on this motion to consider so we can debate and pass this important piece of legislation today."

Mr. FLAKE was further recognized and said:

"I thank the gentleman. If I was looking to waste time and to delay, I would call a vote on this. That would take this body an extra half-hour or so. I am not going to do so. I know I'm going to lose this. But somebody at some point has to stand up and say, We're not potted plants over here. We're in the minority, yes. But we do have some rights, we think. The gentleman said that these amendments that I'll be offering to the Defense bill today are spurious. Last year I would have loved to have been able to offer some of these amendments, but I didn't have any ability at all. Not one amendment was offered to earmarks in the Defense bill. Why? Because it was a closed rule completely. It came in in mini-bus form, and no amendments at all were offered. That's happened, to some extent, over a couple of years. And what has happened during that time? Earmarks have been awarded, no-bid contracts to private companies, that are now being investigated be-

cause money went out; and individuals have already pled guilty to taking that earmarked money and spreading it around to some companies that did no work, none. They've already pled guilty for it. Again, we're bringing to the floor next week a Defense bill as if nothing's wrong, nothing's happening, no investigations are occurring. We're still going to award no-bid contracts to private companies. And yeah, we might hide some language or put some language in the bill that says, Well, these things are really going to be bid out. But the Defense Department, if you ask them today, Do you bid these things out? They say, Yes, we're required to. Except when we don't, when we issue what's called a J&A, and we decide, Well, we're really not going to bid that one out because it was asked for by Congress.

"That is just unbelievable to me that we are accused of being spurious when we attempt to bring earmark amendments to the floor to vet in some way, shallow though it may be on the floor of the House, it's all we've got because we only got a list of these earmarks this week, we're scolded and told that we're spurious for asking for just a smidgeon of accountability here for the sponsor of the earmark to stand up and justify why he thinks or she thinks that she has the ability to award a no-bid contract to a private company whose executives may turn around and give big amounts of money to that Member. That's being investigated in some cases by the Department of Justice.

"And we say, We should be able to do it, and no Member should be able to question it, that we shouldn't be able to raise it on the floor of the House. I just don't get it. Every time I think I have seen it all, I haven't. And today to be scolded for bringing amendments to the floor, and then to have the majority party bring 12 and to be told that we should be happy because they have seen fit to choose four of those amendments, allow us to offer them, and we should be somehow grateful and should embrace this rule just blows me away.

"I don't know what to say, Mr. Speaker. But I would urge this Congress not to move ahead with this bill in this fashion. There is no requirement that we have to do this today any more than you have to do health care this week or next week. We're a deliberative body, I hope; and we should deliberate just a little bit more."

After debate,

The question being put, viva voce,

Will the House now consider said resolution?

The SPEAKER pro tempore, Mr. BLUMENAUER, announced that the yeas had it.

So, the House decided to consider said resolution.

A motion to reconsider the vote whereby the House decided to consider the resolution was, by unanimous consent, laid on the table.

A RESOLUTION PROVIDING THAT A SPECIAL ORDER OF BUSINESS RESOLUTION BE AMENDED TO ALLOW CONSIDERATION OF A SPECIFIED AMENDMENT PROPOSES A SPECIAL ORDER OF BUSINESS AND DOES NOT PRESENT A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

THE HOUSE LAID ON THE TABLE AN APPEAL FROM THE RULING OF THE SPEAKER PRO TEMPORE.

On July 24, 2009, Mr. PRICE of Georgia, rose to a question of the privileges of the House and submitted the following resolution:

Whereas the gentleman from Georgia, Mr. Price, submitted an amendment to the Committee on Rules to H.R. 3288, the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2010;

Whereas the said gentleman's amendment would have required that none of the funds made available in this Act be used to establish, issue, implement, administer, or enforce any prohibition or restriction on the otherwise lawful possession or use of firearms in federally assisted housing;

Whereas the Second Amendment of the United States constitution guarantees that "the right of the people to keep and bear Arms, shall not be infringed";

Whereas the Second Amendment applies equally to all Americans, regardless of who owns or pays for their housing;

Whereas the gentleman's amendment complied with all applicable Rules of the House for amendments to appropriations measures and would have been in order under an open amendment process, but regrettably the House Democratic leadership has dramatically and historically reduced the opportunity for open debate on this Floor; and

Whereas the Speaker, Ms. Pelosi, the Democrat leadership, and the chairman of the Committee on Appropriations, Mr. Obey, prevented the House from voting on the amendment by excluding it from the list of amendments made in order under the rule for the bill: Now, therefore, be it

Resolved, That H. Res. 669, the rule to accompany H.R. 3288, be amended to allow the gentleman from Georgia's amendment be considered and voted on in the House.

The SPEAKER pro tempore, Mr. BLUMENAUER, spoke and said:

"Does the gentleman from Georgia wish to present an argument on why the resolution qualifies as privileged?"

Mr. PRICE of Georgia, was further recognized and said:

"Mr. Speaker, this House operates under rules, or it's supposed to operate under rules, rules that have been longstanding in the House and that are incorporated in written form. And rule IX of those rules of the House states specifically, Members may raise questions 'affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings' and those affecting the rights of Members individually in their representative capacity.

"So the question is, Mr. Speaker, what is more fundamental to the rights of the Members of this House than the ability to represent their constituents and to affect the legislation that's brought to the floor?"

"The Democrat majority, under Speaker PELOSI, has unilaterally—

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some would say brazenly, some would say repressively—ended a 220-year tradition of allowing any Member to allow a spending bill.

“And that’s precisely what I’m attempting to do, Mr. Speaker.

“When my constituents sent me here to Congress, they didn’t send me here to just push buttons. What they sent me here to do was to exercise every single ability that a Member of the House is granted. And one of the abilities that the Member of the House is granted is the opportunity to affect legislation.

“And under rule IX, which states, Mr. Speaker, that the proceedings should not affect the rights of the Members individually in their Representative capacity, so if being denied the ability to offer an amendment doesn’t affect the rights of this House, if it doesn’t affect the dignity and integrity of its proceedings, if it doesn’t affect my rights as a Representative, then I don’t know what does, Mr. Speaker.

“I don’t know what does. If Members are not allowed to offer amendments, then the Member, him or herself, is unable to represent their constituents and consequently is disenfranchising every single American.

“So, Mr. Speaker, I would contend respectfully that the inability of Members to offer amendments is an indignity upon the House and makes it so that Members are not able to exercise their representative capacity.

“And I appeal to the Chair to see the light of day and allow this privileged resolution to move forward.”

The SPEAKER pro tempore, Mr. BLUMENAUER, ruled and said:

“In evaluating the resolution offered by the gentleman from Georgia under the standards of rule IX, the Chair must be mindful of a fundamental principle illuminated by annotations of precedent in section 706 of the House Rules and Manual, to wit: that a question of the privileges of the House may not be invoked to prescribe a special order of business for the House.

“The Chair finds that the resolution offered by the gentleman from Georgia, by proposing directly to amend House Resolution 669, prescribes a special order of business. Under a long and well-settled line of precedent presently culminating in several rulings during this first session of the 111th Congress, such a resolution cannot qualify as a question of the privileges of the House.

“The Chair, therefore, holds that the resolution is not privileged under rule IX for consideration ahead of other business. Instead, the resolution may be submitted through the hopper in the regular course.”

Mr. PRICE of Georgia, appealed the ruling of the Chair.

The question being stated,

Will the decision of the Chair stand as the judgment of the House?

Mr. HASTINGS of Florida, moved to lay the appeal on the table.

The question being put, viva voce,

Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER pro tempore, Mr. BLUMENAUER, announced that the yeas had it.

Mr. PRICE of Georgia, demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the

affirmative	{	Yeas	238
		Nays	182

¶99.10 [Roll No. 638]

So the motion to lay the appeal on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶99.27)

AN AMENDMENT PROPOSED IN A MOTION TO RECOMMIT A GENERAL APPROPRIATION BILL INCORPORATING BY REFERENCE NUMEROUS AMENDMENTS THAT CHANGED EXISTING LAW IS LEGISLATION IN VIOLATION OF CLAUSE 2 OF RULE XXI AND WAS RULED OUT.

On July 24, 2009, Mr. OBEY made a point of order against consideration of the motion and said:

“I make a point of order against the motion to recommit with instructions because it includes legislation and is not in order under clause 2 of rule XXI, and I ask for a ruling from the Chair.”

Mr. TIAHRT was recognized to speak to the point of order and said:

“Mr. Speaker, I would just like to say that this, Mr. Speaker, takes the amendments that were not made in order by the rule en masse. It’s very similar to what the manager did by, in aggregate, considering amendments, and I would ask that the Chair allow this vote up or down on the amendments that were not made in order by the rule.”

The SPEAKER pro tempore, Mr. SNYDER, sustained the point of order, and said:

“As argued by the gentleman from Wisconsin, the amendment proposed in the motion to recommit violates clause 2 of rule XXI in a number of respects.

“The point of order is sustained. The motion is not in order.”

POINT OF ORDER

(¶102.11)

PURSUANT TO SECTION 426(B)(4) OF THE CONGRESSIONAL BUDGET ACT OF 1974, A MEMBER WHO MAKES A POINT OF ORDER UNDER SECTION 426(A) OF THE ACT AND SATISFIES THE THRESHOLD BURDEN SPECIFIED IN SECTION 426(B)(2) OF THE ACT BY CITING LANGUAGE IN THE RESOLUTION THAT WAIVES THE APPLICATION OF SECTION 425 OF THE ACT IS RECOGNIZED TO CONTROL ONE-HALF OF THE 20 MINUTES PROVIDED FOR DEBATE ON THE QUESTION OF CONSIDERATION.

PURSUANT TO SECTION 426(B)(3) OF THE CONGRESSIONAL BUDGET ACT OF 1974, AS DISPOSITION OF A POINT OF ORDER RAISED UNDER SECTION 426(A) OF THE ACT, THE CHAIR PUTS THE QUESTION OF CONSIDERATION WITH RESPECT TO THE PROPOSITION THAT IS THE OBJECT OF THE POINT OF ORDER.

On July 29, 2009, Mr. FLAKE made a point of order and said:

“Mr. Speaker, I raise a point of order against House Resolution 685 because the resolution violates section 426(a) of the Congressional Budget Act.

The resolution contains a waiver of all points of order against consideration of the bill, which includes a waiver of section 425 of the Congressional Budget Act, which causes a violation of section 426(a).”

The SPEAKER pro tempore, Mr. JACKSON of Illinois, responded to the point of order, and said:

“The gentleman from Arizona [Mr. FLAKE] makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

“In accordance with section 426(b)(2) of the Act, the gentleman from Arizona has met the threshold burden to identify the specific language in the resolution on which the point of order is predicated.

“Pursuant to section 426(b)(3) of the Act, after debate, the Chair will put the question of consideration, to wit: ‘Will the House now consider the resolution?’”

Mr. FLAKE was further recognized and said:

“Mr. Speaker, I’m not sure that there are unfunded mandates in this bill. There probably are, but that isn’t the reason I raise a point of order. I raise it because it’s about the only opportunity those of us in the minority have to talk about this process. It has been extremely restrictive.

“The rule reported for the Defense bill marks the 12th time during the appropriation season that the majority has shut down what has traditionally been an open process. It isn’t coincidental that the Defense appropriations bill is being considered last and we’ll have just about a day to consider it. In recent years, this bill has been rife with earmarks going to for-profit companies, and the measure before us today is no different.

“There are 1,102 earmarks stuffed into this bill, and nearly 550 of them, worth at least \$1.3 billion, are going to private, for-profit companies. The corrupting nature of this practice, which the President himself has publicly noted, has been, itself, evident with the PMA scandal that has centered around campaign contributions and earmarks.

“It is for this reason and this reason alone that I chose to offer 552 amendments to the Rules Committee, each one targeting an earmark that the sponsors listed on their Web site as going to a for-profit company.

“These amendments have been derided as an abuse of the process. I would like to address this criticism,

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which I think is wholly unfair. It's unfair because the Office of Legislative Counsel is not in any way inconvenienced by the drafting of these amendments.

"My staff wrote them and wrote them individually. My amendments were delivered to the Rules Committee on Friday of last week, well in advance of a 3 p.m. Monday deadline, giving the staff of the Rules Committee more than enough time to process these amendments accordingly. In fact, I'm told that the Rules Committee closed up shop around 8 p.m. on Friday night. The Rules Committee met yesterday, and the 12th rule of this appropriations process was passed, which restricted amendments again. That meeting lasted just 1 hour.

"One hour the Rules Committee met and, in 1 hour, dealt, apparently, with more than 600 amendments that were submitted. That is almost equivalent to the Appropriations Committee meeting for 18 minutes to pass this bill out of committee, a bill with more than 1,000 earmarks, more than 500 earmarks that are no-bid contracts to private companies, passed by the Appropriations Committee in 18 minutes.

"Now, the majority talks a lot about making sure that we do this all in a timely process. I would suggest there is something to being a bit more thorough. You cannot vet more than 1,000 earmarks, more than 550 of which are no-bid contracts to private companies, in 18 minutes. And you can't restrict it in this way coming to the floor and expect this to be a thorough process. It is a quick process. Maybe the trains are running on time, but we're not doing our job here.

"The flawed process by which the Rules Committee reported this rule does not appear to have been delayed or inconvenienced in any way by the submission of these amendments. Referring to these amendment submissions as an abuse of the process is far-fetched considering the severe restrictions the Rules Committee has placed on our ability to offer amendments to appropriations bills. This is a process, again, that has been traditionally open.

"Excluding the Defense bill, more than 800 amendments were submitted to the Rules Committee for the 10 appropriations bills the House has already considered this summer. At the start of the process, the chairman of the Appropriations Committee said, 'There are a limited number of hours between now and the time we recess. If we want to get our work done, we have to limit the debate time that we spend on these bills.'

"The majority leader echoed this sentiment as an explanation for clamping down on the appropriations process: 'So I tell my friend that the reason for rising was to give us the opportunity to go to the Rules Committee and provide for, as I said, time constraints in which we can effectively complete this bill.'

"This has been the excuse that's been used so far, an excuse to only make in order 18 percent of the amendments submitted for appropriations bills we've seen so far.

"I realize amongst my colleagues I have been the most fortunate. I have been permitted to offer more than 40 amendments, 26 percent of all the amendments ruled in order, in total, for these bills. I suppose I should be grateful for any crumbs that fall from the Appropriations Committee or the Rules Committee.

"But my amendments were ruled in order at the expense of other perhaps more substantive amendments in many ways as a way for the majority to deflect blame for a virtually closed process and to prevent their Members from making tough votes on some of the other amendments that were submitted.

"When I was on the House floor with a couple of bills, time and time again, in fact, 16 times, I asked for unanimous consent to substitute some of my colleagues' amendments for my own. We already had the time constraints for the bill, so the notion that we had to make the trains run on time, we had to get this debate done was not the point. But I was rejected 16 times in a row, not because the amendments offered by my colleagues weren't germane. They were. They simply weren't ruled in order by the majority because they didn't want to face those amendments.

"And if we're going to talk about abuse of process, there it is. It's not offering 550 amendments because we are doing more than 550 no-bid contracts to private companies. That's not where the abuse lies. The abuse lies in the majority's saying we are only going to entertain those amendments that we know we can beat or that we want to entertain or that are entertaining, apparently, not the ones that may be difficult for us.

"Now, when Republicans were in the majority, I have often said that we did a few things that we shouldn't have. Holding a vote open for 3 hours wasn't a good thing. But I have never seen any of the abuse of the process like this. No matter how the Republicans, when they were in power, didn't want to see amendments, like some of mine, they allowed them. We spent, I think, 3 days on the Interior appropriations bill because Members kept coming forward offering amendments that our own majority did not want to see, but they knew that they shouldn't shut down this process, which has been traditionally open.

"But the new majority has decided to completely close it and did not have one appropriation bill this year come to the floor under an open rule. In particular, when some will make the argument that, well, hey, back in the 1970s there were occasions when these appropriation bills were not brought to the floor under an open rule, the situation we have today is a situation in which bills are brought to the floor that have been stuffed to the gills with earmarks

like this bill that we're considering today. More than 1,000 earmarks, more than 500 of which are no-bid contracts to private companies for which the Appropriations Committee took a paltry 18 minutes to vet and to send on to the House floor, and then we're told, ah, but you can only offer eight of the 552 amendments you submitted. Only eight of them. You can choose them, but only eight, because we don't have time to vet any more at that time."

Mr. POLIS was recognized to speak to the point of order and said:

"Mr. Speaker, as my colleagues know, we've been here before. This very same point of order has been raised against nearly every appropriations bill, and each time it's used to discuss something other than its intended purpose, which is supposed to be about unfunded mandates. Once again, it's about delaying consideration of this bill and, ultimately, stopping it altogether.

"I hope my colleagues will again vote 'yes' so we can consider this legislation on its merits and fund the important defense needs of our Nation and not stop it on a procedural motion. Those who oppose the bill are welcomed to vote against this bill on final passage. We must consider this rule and we must pass this legislation today to continue to fund the defense and protection of our country.

I have the right to close, but in the end, I will urge my colleagues to vote 'yes' to consider the rule."

Mr. FLAKE was further recognized and said:

"It was said again that I'm just trying to delay this process. If I were trying to delay this process, I could stand up here with a privileged resolution and read every one of the amendments that I wasn't allowed into the RECORD. It would take hours to do that.

"I'm not trying to delay this process unnecessarily. This isn't a dilatory tactic. It's just about the only way we can stand and actually register objection to this closed process. I suppose I could, and this would be chilling reading, read the transcript of yesterday's court trial of an individual who, I believe, is pleading guilty in some fashion, a contractor who received earmarks and passed them on to other contractors who weren't doing any work at all. That was under a previous Defense bill that wasn't vetted, as it should have been, that came to the floor probably last year under a closed process; no amendments could have been offered.

"And so here we have investigations, particularly with the PMA scandal, swirling around this institution because we aren't doing our work. We aren't vetting these bills. I wish that the Appropriations Committee would, but they're not. And then when you come to the floor and say, we'd like to challenge a few of these earmarks, you say, you can challenge eight of them; 8 of the more than 550 no-bid contracts to private companies. You can only question eight of them. That's all we

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have time for because we have to pass this bill today for some reason.

"The fiscal year doesn't run out until the end of September. This is not a bill that has to be passed today or tomorrow. We can spend the time that we need, or we should have taken time earlier this year instead of doing suspension bills or last Friday, instead of passing a wild horse welfare act or whatever we did.

"The appropriations bills are the most important work this Congress does. And to say that we have to move through them quickly so nobody sees what we're doing, so nobody sees that we're doing no-bid contracts for private companies is simply wrong. That is the abuse of power in this institution, not bringing 553 amendments to the floor."

Mr. POLIS was further recognized and said:

"I would encourage my colleague from Arizona to stick around, assuming that this motion passes, for the discussion of the rule. He will find in the proposed rule there is the opportunity that we will be giving the House of Representatives as a whole to vote on a block of amendments that the gentleman has identified, as well as several individual ones that the gentleman has identified.

"I urge my colleagues to vote 'yes' on this motion to consider, so that we can debate and pass this important piece of legislation today."

After debate,

The question being put, *viva voce*,

Will the House now consider the resolution?

The SPEAKER pro tempore, Mr. JACKSON of Illinois, announced that the yeas had it.

So, the House decided to consider said resolution.

A motion to reconsider the vote whereby the House decided to consider the resolution was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

(¶102.14)

A RESOLUTION ALLEGING AN ABUSE OF POWER BY A STAFF MEMBER OF THE HOUSE COMMISSION ON CONGRESSIONAL MAILING STANDARDS FOR WILLINGFULLY AND KNOWINGLY APPLYING DIFFERENT STANDARDS TO MATERIAL SUBMITTED ON THE BASIS OF PARTY AND DISAPPROVING OF THE FAILURE OF THE DEMOCRATIC MEMBERS OF SUCH COMMISSION TO ENSURE THAT STAFF CARRIED OUT THEIR DUTIES IN A PROFESSIONAL, FAIR, AND IMPARTIAL MANNER, PRESENTS A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

THE HOUSE LAID ON THE TABLE A RESOLUTION CONSIDERED AS A QUESTION OF THE PRIVILEGES OF THE HOUSE.

On July 29, 2009, Mr. BOEHNER, rose to a question of the privileges of the House and submitted the following resolution (H. Res. 690):

Whereas page 5 of the "Regulations on the Use of the CONGRESSIONAL FRANK By Members of the House of Representatives" states, "It is the policy of the Congress that the privilege of sending mail as franked mail shall be established under this section in order to assist and expedite the conduct of the official business, activities and duties of the Congress of the United States. It is the intent of the Congress that such official business, activities and duties cover all matters which directly or indirectly pertain to the legislative process or to any congressional representative functions generally, or to the functioning, working, or operating of the Congress and the performance of official duties in connection therewith, and shall include, but not be limited to, the conveying of information to the public, the requesting of the views of the public, or the views and information of other authority of government, as a guide or a means of assistance in the performance of those functions.;"

Whereas clause 5 of rule XXIV of the Rules of the House of Representatives provides, "Before making a mass mailing, a Member, Delegate, or Resident Commissioner shall submit a sample or description of the mail matter involved to the House Commission on Congressional Mailing Standards for an advisory opinion as to whether the proposed mailing is in compliance with applicable provisions of law, rule, or regulation.;"

Whereas the House Commission on Congressional Mailing Standards, authorized in Public Law 91-191, is commonly referred to as the "Franking Commission";

Whereas the Democratic staff director and Republican staff director of the Franking Commission have served in their respective positions for more than a decade and report to the Democratic and Republican members of the Franking Commission, respectively;

Whereas during the 111th Congress the members of the Franking Commission are Representatives Susan Davis (D-CA), chairwoman; Rep. Dan Lungren (R-CA), ranking Republican member; Rep. Donna Edwards (D-MD), Rep. Kevin McCarthy (R-CA), Rep. Brad Sherman (D-CA) and Rep. Tom Price (R-GA);

Whereas the aforementioned Franking Commission advisory opinions required for Members seeking approval to send mass mailings, or their electronic equivalents, are routinely signed on behalf of the Commission by its Democratic and Republican staff directors or their designees;

Whereas no Member may receive Franking Commission approval without signatures from both majority and minority staff;

Whereas the Commission's Democratic staff director has been permitted by the Commission's Democratic Members to abuse her position during the current Congress by willfully and knowingly applying different standards to material submitted for Franking Commission approval by Republican Members than she applies to material submitted by Democratic Members;

Whereas on July 27, 2009 the Commission's Democratic staff director refused to approve a mailing proposed by Representative Joe Barton of Texas which included the words "Democrat majority", but indicated she would approve the mailing if Representative Barton instead substituted the words "congressional majority", yet on August 3, 2006 the same Democratic staff director signed a Franking Commission approval document for a mailing issued by then-Minority Leader Nancy Pelosi that included the following sentence, "But too many here and across our nation are paying the price for the Republican Congressional majority's special interest agenda . . ."

Whereas the Democratic staff director has refused to grant permission to Republican Members wishing to provide their constitu-

ents with copies of a chart intended to illustrate in graphic form many of the provisions of the Democrats' proposed health care legislation;

Whereas charts similar in form and general purpose have for many years been approved routinely by the Commission's Democratic staff director in mailings produced by Members on both sides of the aisle;

Whereas on December 12, 1993, the Franking Commission granted approval to Rep. David Levy of New York to disseminate a similar chart, intended to illustrate graphically the provisions of comprehensive health care legislation proposed by the Clinton Administration;

Whereas the Commission's Democratic staff director has refused to approve requests by Republican Members to informally characterize certain features of the Democrats' pending health care proposal as "government run health care" but has approved requests by Democratic Members to informally characterize the same aspects of the bill as "the public option";

Whereas the Commission's Democratic staff director has refused to approve more than twenty requests by Republican Members to use the phrase "cap and tax" to describe a Democratic proposal to reduce carbon emissions by imposing new fees, taxes and higher costs on American consumers and businesses;

Whereas a search for the term "cap and tax" on the Google internet search engine yielded at least 4,478,000 appearances of this commonly used phrase;

Whereas an article in the April 27, 2009 edition of "Politico" newspaper quoted the most senior Member of the House, Democratic Representative John Dingell of Michigan, the former chairman of the House Committee on Energy and Commerce, as saying, "Nobody in this country realizes that cap and trade is a tax, and it's a great big one.;"

Whereas the Commission's Democratic staff director has dismissed the proposed descriptive term, "cap and tax" as an informal and inappropriate characterization of the legislation, while at the same time granting approval to Democratic Members seeking to use the phrase "cap and trade" to informally and inappropriately characterize the same bill;

Whereas the Commission's Democratic staff director has refused to approve material submitted by Republican Members seeking to convey to the public those Members' concern about substantial job losses expected to result if the Democrats' proposed national energy tax is enacted, while at the same time approving mailings submitted by Democratic Members informing the public about large numbers of new jobs the Democrats claim will be created by the same legislation;

Whereas the Democratic staff director's actions have prompted a steady stream of media reports describing a climate of partisan censorship imposed on the House by the Democratic majority;

Whereas an article in the July 23, 2009 edition of Roll Call newspaper stated, "A dispute over the right of House Republicans to use the chamber's official franking service to send a mailer critical of Democratic health care plans has escalated beyond the Franking Commission to 'high levels on the Democratic side,' Franking Commission member Rep. Dan Lungren (R-CA) said at a Thursday press conference. Asked whether he believed the matter had been referred to Rep. Pelosi (D-CA) office, Lungren, the ranking member of the House Administration Committee, said, 'All I've been told is that its above the Franking Commission and that it appears to be above our committee, so I don't know where you go after that.';"

Whereas by permitting the Commission's Democratic staff director to carry out her

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duties in a partisan and unfair manner, the Democratic Members of the Franking Commission have brought discredit on the House; and,

Whereas clause 1 of rule XXIII of the Rules of the House of Representatives, also known as the Code of Official Conduct, provides "A Member, Delegate, Resident Commissioner, officer, or employee of the House shall behave at all times in a manner that shall reflect creditably on the House": Now, therefore, be it

Resolved, That the House views with disapproval the failure of the Democratic Members of the Franking Commission to ensure that the Commission's Democratic staff carries out its important responsibilities in a professional, fair, and impartial manner.

The SPEAKER pro tempore, Mr. ALTMIRE, ruled that the resolution submitted did present a question of the privileges of the House under rule IX.

Mr. HOYER moved to lay the resolution on the table.

The question being put, *viva voce*,

Will the House lay the resolution on the table?

The SPEAKER pro tempore, Mr. ALTMIRE, announced that the yeas had it.

Mr. BOEHNER demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the affirmative	{	Yeas	244
		Nays	173
		Answered present	11

¶102.15 [Roll No. 656]

So the motion to lay the resolution on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶103.45)

TO A BILL IMPROVING FOOD SAFETY THROUGH A MYRIAD OF METHODS INCLUDING THE TRACING OF FOOD ORIGINS, RECALLS OF FOOD, AND QUARANTINE OF FOOD, AN AMENDMENT PROPOSED IN A MOTION TO RECOMMIT THAT WOULD ALLOW FOR THE PREEMPTIVE PURCHASE OF FOOD RELATED TO ACTIVITIES IN THE BILL IS GERMANE.

On July 30, 2009, Mr. DINGELL made a point of order and said:

"Under rule XVI, clause 7, and the language of the rule, it says no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment. And I'd point out that that is applicable to the questions before us. I would note that the language of the motion does take and separates the receipts that will be gotten from the registration fees, so that 50 percent are available to defray the costs of additional safety inspection of food; but 50 percent shall be available for use under section 137. But the purpose of that is,

rather, for the preemptive purchase of product from facilities as defined in section 415. This allows the broadest kind of purchase of food.

"The legislation itself allows certain specific actions, none of which involve purchase of food, particularly under such broad circumstances as the motion allows. The bill only allows expenditure of these registration fees for the following purpose: records access, traceability, recall authority, authority to detain, subpoena authority, prohibition or restriction on the movement of bad food. No further authorities for purchase or expenditure of this money are permitted.

"This goes well beyond the fundamental purpose of the legislation and, as such, it constitutes a violation of the rules, going beyond that which is the fundamental purpose of the legislation and so constituting a violation of rule XVI, clause 7 of being not germane."

Mr. LUCAS was recognized to speak to the point of order and said:

"Mr. Speaker, the nature of this bill contemplates a number of different things that try to address and protect the supply of domestic food in this country, food in general, I should say. The bill, the language offered, the motion, refers to using 50 percent of these fees collected under section 137 of the motion, which is referenced on the second page. This is just an additional item to all of the things already outlined in the bill in its present form."

Mr. DINGELL was further recognized and said:

"Mr. Speaker, I would observe that the language of the legislation nowhere authorizes purchase of food. Under the number of the legislation appears the language, to amend the Food, Drug and Cosmetic Act to improve the safety of food in the global market and for other purposes. And then, down there where you follow, following the words, a bill, and it says, to amend the Federal Food, Drug and Cosmetic Act to improve the safety of food in the global market and for other purposes. Nowhere in the legislation, in my reading, have I been able to find the authorization for the purchase of food or the purchase of food to achieve safety.

"I would observe that the language of the motion to recommit permits the purchase of the food without restriction, without restraint or limit. It is some of the grandest authority that is given and well beyond any authority which Food and Drug now has or seeks. Food and Drug has no authority in this area whatsoever for the purchase of food. And the purchasing of food is not for the purpose of protecting the American people, of seeing to it that Food and Drug can properly assure the safety of the food or the protection of the American consumers. And the language that is, I think, most particularly descriptive of what the proposal does, it follows line 3 at page 2. It says, the Secretary of Health—and this is, I'm reading at line 6—the Secretary of Health and Human Services may make

a preemptive purchase related to activities by the government in carrying out any provisions of this act or amendment made by this act.

"That might be good language for the Committee on Agriculture to present to the House, but it is no language that you will find in Food and Drug and none that would be suggested by the commerce committee."

The SPEAKER pro tempore, Mr. CAPUANO, overruled the point of order, and said:

"The gentleman from Michigan makes a point of order that the amendment proposed in the motion to recommit offered by the gentleman from Oklahoma is not germane. The test of germaneness in this situation is the relationship of the amendment proposed in the motion to recommit to the provisions of the bill as a whole.

"The bill, as perfected, amends the Federal Food, Drug, and Cosmetic Act to improve the safety of food. It grants the Secretary of Health and Human Services authority to issue mandatory performance standards for reducing hazards and requires the Secretary to conduct risk-based inspections. It also expands the Secretary's access to food safety records and increases the Secretary's ability to oversee the safety of imported food, requiring safety-related documentation for potentially unsafe imported food as a condition of import.

"In most pertinent part to the question at hand, the bill provides the Secretary with sundry tools to address an outbreak of food-borne illness. These include a system for the rapid tracing of the origin of food, authority to mandate recalls of contaminated food, and authority to quarantine geographic areas of the United States from which the Secretary reasonably believes contaminated food has originated.

"The amendment proposed in the motion to recommit contemplates allowing the Secretary to preemptively purchase food as a matter of food safety, as in the context of section 415 of the Act. The amendment also would make a portion of the proceeds of certain fees contemplated by the bill available only for such preemptive purchases.

"The Chair finds that the amendment pursues the same fundamental purpose of the bill by a method that dwells within the range of methods employed by the bill. The Chair therefore holds that the amendment is germane.

"Accordingly, the point of order is overruled. The motion is in order."

PRIVILEGES OF THE HOUSE

(¶109.24)

A RESOLUTION ALLEGING THAT A MEMBER HAD INTERRUPTED AN ADDRESS BY THE PRESIDENT TO A JOINT SESSION OF CONGRESS BY INTERJECTING REMARKS, AND DISAPPROVING OF THAT BEHAVIOR, PRESENTS A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

On September 15, 2009, Mr. HOYER, rose to a question of the privileges of the House and submitted the following resolution (H. Res. 744):

QUESTIONS OF ORDER

Whereas on September 9, 2009, during the joint session of Congress convened pursuant to House Concurrent Resolution 179, the President of the United States, speaking at the invitation of the House and Senate, had his remarks interrupted by the Representative from South Carolina, Mr. Wilson; and

Whereas the conduct of the Representative from South Carolina was a breach of decorum and degraded the proceedings of the joint session, to the discredit of the House: Now, therefore, be it

Resolved, That the House of Representatives disapproves of the behavior of the Representative from South Carolina, Mr. Wilson, during the joint session of Congress held on September 9, 2009.

The SPEAKER pro tempore, Mr. TIERNEY, ruled that the resolution submitted did present a question of the privileges of the House under rule IX.

When said resolution was considered. After debate,

On motion of Mr. CLYBURN, the previous question was ordered on the resolution to its adoption or rejection.

The question being put, viva voce, Will the House agree to said resolution?

The SPEAKER pro tempore, Mr. TIERNEY, announced that the yeas had it.

Mr. BOEHNER demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the affirmative	{	Yeas	240
		Nays	179
		Answered present	5

¶109.25 [Roll No. 699]

So the resolution was agreed to. A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE (¶122.11)

A RESOLUTION ALLEGING THAT A MEMBER RECEIVED CAMPAIGN CONTRIBUTIONS IN VIOLATION OF LAW AND GIFTS IN VIOLATION OF HOUSE RULES; FAILED TO DISCLOSE SUCH CONTRIBUTIONS AND GIFTS IN VIOLATION OF LAW AND HOUSE RULES; FAILED TO REPORT INCOME AND PAY ASSOCIATED TAX IN VIOLATION OF LAW; AND INFLUENCED LEGISLATION TO BENEFIT CERTAIN PARTIES IN VIOLATION OF HOUSE RULES; AND REMOVING HIM AS CHAIRMAN OF A STANDING COMMITTEE PENDING COMPLETION OF AN ONGOING INVESTIGATION BY THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT, PRESENTS A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

THE HOUSE REFERRED A RESOLUTION CONSIDERED AS A QUESTION OF THE PRIVILEGES OF THE HOUSE TO THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT.

On October 7, 2009, Mr. CARTER rose to a question of the privileges of the

House and submitted the following resolution (H. Res. 805):

Whereas the gentleman from New York, Charles B. Rangel, the fourth most senior Member of the House of Representatives, serves as chairman of the House Ways and Means Committee, a position of considerable power and influence within the House of Representatives;

Whereas clause one of Rule XXIII of the Rules of the House of Representatives provides, "A Member, Delegate, Resident Commissioner, officer, or employee of the House shall conduct himself at all times in a manner that shall reflect creditably on the House.";

Whereas The New York Times reported on September 5, 2008, that, "Representative Charles B. Rangel has earned more than \$75,000 in rental income from a villa he has owned in the Dominican Republic since 1988, but never reported it on his federal or state tax returns, according to a lawyer for the congressman and documents from the resort";

Whereas in an article in the September 5, 2008 edition of The New York Times, his attorney confirmed that Representative Rangel's annual congressional Financial Disclosure statements failed to disclose the rental income from his resort villa;

Whereas The New York Times reported on September 6, 2008 that, "Representative Charles B. Rangel paid no interest for more than a decade on a mortgage extended to him to buy a villa at a beachfront resort in the Dominican Republic, according to Mr. Rangel's lawyer and records from the resort. The loan, which was extended to Mr. Rangel in 1988, was originally to be paid back over seven years at a rate of 10.5 percent. But within two years, interest on the loan was waived for Mr. Rangel.";

Whereas clause 5(a)(2)(A) of House Rule 25 defines a gift as, ". . . a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value" and prohibits the acceptance of such gifts except in limited circumstances;

Whereas Representative Rangel's acceptance of thousands of dollars in interest forgiveness is a violation of the House gift ban;

Whereas Representative Rangel's failure to disclose the aforementioned gifts and income on his Personal Financial Disclosure Statements violates House rules and federal law;

Whereas Representative Rangel's failure to report the aforementioned gifts and income on federal, state and local tax returns is a violation of the tax laws of those jurisdictions;

Whereas the Committee on Ways and Means, which Representative Rangel chairs, has jurisdiction over the United States Tax Code;

Whereas the House Committee on Standards of Official Conduct first announced on July 31, 2008 that it was reviewing allegations of misconduct by Representative Rangel;

Whereas Roll Call newspaper reported on September 15, 2008 that, "The, inconsistent reports are among myriad errors, discrepancies and unexplained entries on Rangel's personal disclosure forms over the past eight years that make it almost impossible to get a clear picture of the Ways and Means chairman's financial dealings.";

Whereas the House Committee on Standards of Official Conduct announced on September 24, 2008 that it had established an investigative subcommittee in the matter of Representative Rangel;

Whereas after the Ethics Committee probe was underway, The New York Times reported on November 24, 2008 that, "Congressional records and interviews show that Mr. Rangel was instrumental in preserving a lu-

crative tax loophole that benefitted Nabors Industries, an oil drilling company last year, while at the same time its chief executive was pledging \$1 million to the Charles B. Rangel School of Public Service at C.C.N.Y.";

Whereas the House Committee on Standards of Official Conduct announced on December 9, 2008 that it had expanded the jurisdiction of the aforementioned investigative subcommittee to examine the allegations related to Representative Rangel's involvement with Nabors Industries;

Whereas since then, further serious allegations of improper and potentially illegal conduct by Representative Rangel have surfaced;

Whereas during the recently completed August district work period, Representative Rangel acknowledged his failure to publicly disclose at least half a million dollars in cash assets, tens of thousands of dollars in investment income, and his ownership of two pieces of property in New Jersey;

Whereas corrected financial disclosure statements filed by Representative Rangel on August 12, 2009 now reveal his net worth to be nearly twice as much as he had previously revealed;

Whereas The New York Times newspaper reported on August 26, 2009 that, "United States Representative Charles B. Rangel, whose personal finances and fund raising are the subject of two House ethics investigations, failed to report at least \$500,000 in assets on his 2007 Congressional disclosure form, according to an amended report he filed this month. Among the dozen newly disclosed holdings revealed in the amended forms are a checking account at a federal credit union with a balance between \$250,000 and \$500,000; three vacant lots in Glassboro, N.J., valued at a total of \$1,000 to \$15,000; and stock in PepsiCo worth between \$15,000 and \$50,000.";

Whereas Roll Call newspaper reported on August 25, 2009 that Representative Rangel's corrected filings also revealed "at least \$250,001 in a fund called ML Allianz Global Investors Consults Diversified Port III.";

Whereas the aforementioned Roll Call story reported that "Rangel also originally misreported that his investments in 2007 netted him \$6,511-\$17,950 in dividends, capital gains and rental income. In his revised filing, that range jumped to between \$29,220 and \$81,200.";

Whereas these most recent revelations by Representative Rangel have resulted in heightened national news media coverage of alleged impropriety and potentially criminal conduct by one of the most senior Members of the House;

Whereas an editorial in The Washington Times newspaper on September 1, 2009 noted, "Charlie Rangel is one lucky guy. The Democratic congressman from Harlem, N.Y., just discovered that his net wealth is twice what he thought. That's a pretty good day at the office for a public servant. Mr. Rangel also realized that he made tens of thousands of dollars more than he reported in many different years over the past decade. This is the most recent string in a series of financial bonanzas for Mr. Rangel, who last year admitted he had forgotten about \$75,000 in rental income on his Caribbean resort property.";

Whereas the same editorial also noted, "The congressman has failed to pay property taxes on two lots in New Jersey, according to the New York Post. That's not all. In order to avoid taxes and get lower mortgage rates, Mr. Rangel simultaneously claimed three 'primary residences'.";

Whereas an editorial in the September 17, 2009 edition of The New Haven Register stated, "The ethics and tax complaints keep piling up against U.S. Rep. Charles B. Rangel, who as chairman of the House Ways and

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Means Committee controls writing of the nation's tax laws. The New York Democrat may write those laws, but he apparently feels no obligation to obey them. The investigation appears to have a long way to go. The man who is in charge of writing the nation's tax laws doesn't pay his federal income or local property taxes. He has such a poor grasp of his own finances that he neglects to list half his assets on a disclosure form intended to keep members of Congress accountable and honest. We can already hear the defense of the next tax deadbeat called into court. "If Charlie Rangel doesn't have to pay his taxes, why should I?";

Whereas an article in The Washington Post on September 15, 2009 stated, "Rangel is now the chairman of the House Ways and Means Committee and a man of immense importance in Washington. Nonetheless, he has been busy of late revising and amending the record, backing and filling, using buckets of Wite-Out as he discovers or remembers properties he has owned in New York, New Jersey, Florida, the Dominican Republic and God only knows where else. Rangel recently even discovered bank accounts that no one in the world, apparently including him, knew he had. One was with the Congressional Federal Credit Union; another was with Merrill Lynch—each valued between \$250,000 and \$500,000. He somehow neglected to mention these accounts on his congressional disclosure forms, which means, if you can believe it, that when he signed the forms, he did not notice that maybe \$1 million was missing. Someone ought to check the lighting in his office.";

Whereas the same article in The Washington Post stated, "There is something wrong with Charlie Rangel. Either he did not notice that he was worth about twice as much as he said he was—which is downright worrisome in a congressional leader—or he thinks he's above the law, which is downright worrisome in a congressional leader.";

Whereas it has been more than one year since an editorial in The New York Times on September 15, 2008 stated, "Mounting embarrassment for taxpayers and Congress makes it imperative that Representative Charles Rangel step aside as chairman of the Ways and Means Committee while his ethical problems are investigated.";

Whereas at various times during the past twelve months Representative Rangel and Speaker Pelosi have made public statements asserting that the ongoing investigation of Representative Rangel by the Committee on Standards of Official Conduct would soon be concluded;

Whereas the Committee has to date issued no public statements concerning any expected time line for conducting or concluding its investigation of Representative Rangel;

Whereas major daily newspapers, including The New York Times, The Washington Post, and The New York Post have called for Representative Rangel's removal from his powerful position at least until the House Ethics Committee has completed its ongoing probes of allegations against him;

Whereas Representative Rangel's powerful position as chairman permits him to participate in high level decisions about critically important issues such as reform of the nation's health care system;

Whereas an October 1, 2009 story in The New York Times stated, "Mr. Rangel is one of a small group of House leaders now meeting almost daily behind closed doors with Speaker Nancy Pelosi to distill from the three bills produced in separate committees the one package that will go to the House floor.";

Whereas an Associated Press story on September 20, 2009 stated, "The ethics committee's investigation of Rangel is almost a year

old. It's as much a problem for House Democratic leaders as for Rangel himself. Later this year, when Rangel's committee considers estate tax legislation that could expand into other matters, the headlines will be a version of this message: "Tax scofflaw presiding over tax changes."";

Whereas the New York Post newspaper reported on September 2, 2009 that, "A review of property records for the borough of Glassboro revealed at least six tax liens levied against Rangel's property during the past 16 years. Just last year, two separate liens were levied against both properties owned by Rangel.";

Whereas on May 24, 2006, then Minority Leader Nancy Pelosi cited "high ethical standards" in a letter to former Representative William Jefferson asking that he resign his seat on the Committee on Ways and Means in light of ongoing investigations into alleged financial impropriety by Representative Jefferson;

Whereas Speaker Pelosi took the aforementioned action while Representative Jefferson was under investigation and the subject of considerable controversy in the news media, but prior to any indictment;

Whereas in April of 2007, Republican Leader John Boehner successfully urged several Republican Members to relinquish their committee assignments after learning that each had become the subject of investigations into possible criminal activity;

Whereas Leader Boehner took the aforementioned actions while the Members in question were under investigation and the subjects of widespread media controversy, but prior to any indictments; and

Whereas in the wake of the most recent allegations against Representative Rangel various editorials and articles in major national newspapers criticizing Speaker Pelosi's continued refusal to remove Representative Rangel as chairman of the Committee on Ways and Means after promising she would preside over "the most ethical Congress in history" have held the House up to public ridicule: Now, therefore, be it

Resolved, That upon adoption of this resolution and pending completion of the investigation into his affairs by the Committee on Standards of Official Conduct, Representative Rangel is hereby removed as chairman of the Committee on Ways and Means.

The SPEAKER pro tempore, Mr. HOLDEN, ruled that the resolution submitted did present a question of the privileges of the House under rule IX.

Mr. CROWLEY moved to refer the resolution to the Committee on Standards of Official Conduct.

On motion of Mr. CROWLEY, the previous question was ordered on the motion to refer.

The question being put, viva voce, Will the House now order the previous question on the motion to refer?

The SPEAKER pro tempore, Mr. HOLDEN, announced that the yeas had it.

Mr. CARTER demanded a recorded vote on agreeing to said motion, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the	{	Yeas	243
affirmative	}	Nays	156
		present	19

¶122.12 [Roll No. 758]

So the previous question was ordered on the motion.

The question being put, viva voce Will the House agree to said motion? The SPEAKER pro tempore, Mr. HOLDEN, announced that the yeas had it.

Mr. CARTER demanded a recorded vote on agreeing to said motion, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the	{	Yeas	246
affirmative	}	Nays	143
		Answered	19
		present	19

¶122.13 [Roll No. 759]

So the motion was agreed to. A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶123.15)

THE CHAIR OVERRULED A POINT OF ORDER AGAINST CONSIDERATION OF A CONFERENCE REPORT UNDER CLAUSE 9 OF RULE XXII (SCOPE) UPON A FINDING THAT THE SPECIAL ORDER OF BUSINESS ADOPTED BY THE HOUSE TO GOVERN CONSIDERATION OF THE BILL HAD WAIVED ANY SUCH POINT OF ORDER.

On October 8, 2009, Mr. PRICE of Georgia, made a point of order against consideration of the conference report, and said:

"Pursuant to clause 10 of rule XXII that states that nongermane items may not be included in conference reports and that this bill contains a nongermane item in the hate crimes legislation that was included in it, I raise a point of order against H.R. 2647."

The SPEAKER pro tempore, Mr. SERRANO, responded to the point of order, and said:

"Pursuant to House Resolution 808, all points of order against the conference report are waived."

So the conference report was considered.

POINT OF ORDER

(¶127.23)

TO A BILL ADDRESSING WATER RECYCLING PROJECTS WITHIN A SPECIFIC GEOGRAPHIC AREA, AN AMENDMENT PROPOSED IN A MOTION TO RECOMMEND ADDRESSING WATER AVAILABILITY UNDER A PROJECT IN A DIFFERENT GEOGRAPHIC AREA, AND INCLUDING PROVISIONS CONSTRUCTING THE APPLICATION OF AN ENVIRONMENTAL LAW NOT ADDRESSED BY THE BILL, IS NOT GERMANE.

THE HOUSE LAID ON THE TABLE AN APPEAL FROM THE RULING OF THE SPEAKER PRO TEMPORE.

On October 15, 2009, Mr. George MILLER of California made a point of

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order against consideration of the motion to recommit with instructions, and said:

"Mr. Speaker, I raise a point of order that the motion to recommit contains a nongermane instruction in violation of clause 7 of rule XVI."

Mr. NUNES was recognized to speak to the point of order and said:

"Mr. Speaker, the motion to recommit I have is pretty simple. In fact, what we have before us is legislation that is identical to legislation that this Congress passed in 2003 with overwhelming bipartisan support, so I would hope that you would make it germane."

Mr. George MILLER of California, was further recognized and said:

"Mr. Speaker, I insist upon my point of order. That action by the previous Congress does not make it germane to this legislation."

The SPEAKER pro tempore, Mr. DREIHAUS, sustained the point of order, and said:

"The gentleman from California [Mr. GEORGE MILLER] makes a point of order that the amendment offered by the gentleman from California [Mr. NUNES] is not germane."

"The bill, H.R. 2442, amends the Reclamation Wastewater and Groundwater Study and Facilities Act to expand the Bay Area Regional Water Recycling Program. The bill authorizes six new water recycling partnerships and modifies two existing partnerships.

"The amendment offered by the gentleman from California seeks to address water availability related to the Central Valley Project.

"Clause 7 of rule XVI, the germaneness rule, provides that no proposition on a "subject different from that under consideration shall be admitted under color of amendment.

"One of the central tenets of the germaneness rule is that an amendment should relate to the subject matter of the underlying measure.

"The bill is confined to water recycling projects within a specific geographic area. The amendment addresses water availability related to the Central Valley Project. By addressing this topic, the amendment falls outside the ambit of the underlying measure and is not germane."

Mr. NUNES appealed the ruling of the Chair.

The question being stated,

Will the decision of the Chair stand as the judgment of the House?

Mr. George MILLER of California, moved to lay the appeal on the table.

The question being put, viva voce,

Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER pro tempore, Mr. DREIHAUS, announced that the yeas had it.

Mr. NUNES demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 237
affirmative } Nays 176
¶127.24 [Roll No. 788]

So the motion to lay the appeal on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶146.16)

TO A BILL ADDRESSING PAYMENTS TO PHYSICIANS UNDER THE MEDICARE PROGRAM AND CONFINED TO THE JURISDICTIONS OF THE COMMITTEES ON ENERGY AND COMMERCE AND WAYS AND MEANS, AN AMENDMENT PROPOSED IN A MOTION TO RECOMMIT ADDRESSING MEDICAL MALPRACTICE REFORM CONTAINING MATTER WITHIN THE JURISDICTION OF THE COMMITTEE ON THE JUDICIARY IS NOT GERMANE.

THE HOUSE LAID ON THE TABLE AN APPEAL FROM THE RULING OF THE SPEAKER PRO TEMPORE.

On November 19, 2009, Mr. WAXMAN made a point of order against consideration of the motion, and said:

"Mr. Speaker, pursuant to clause 7 of House rule XVI, matters within the motion to recommit are not germane to the underlying bill, and I insist on my point of order."

Mr. GINGREY was recognized to speak to the point of order and said:

"So, Mr. Speaker, my motion to recommit ensures that physicians are reimbursed fairly and that this reimbursement is fully paid for and would add not one cent to the deficit.

"This motion to recommit will provide physicians with a 2 percent Medicare payment rate increase in each of the next 4 years. The motion to recommit would erase the scheduled 21 percent cut in 2010—

"Mr. Speaker, the motion to recommit would erase the scheduled 21 percent cut in 2010 and the estimated 5 percent cuts in 2011, 2012, and 2013. The Democratic bill would only provide eight-tenths of 1 percent payment rate increase."

Mr. WAXMAN was further recognized and said:

"Mr. Speaker, I don't believe the gentleman's argument is pertinent to the point of order. I insist on my point of order."

The SPEAKER pro tempore, Mr. SALAZAR, sustained the point of order, and said:

"The gentleman from California makes a point of order that the amendment proposed in the instructions included in the motion to recommit offered by the gentleman from Georgia is not germane.

"The bill, H.R. 3961, addresses the narrow topic of payments under the Medicare sustainable growth rate system. The bill adjusts the formulas for the SGR system to alter payments to physicians under that system.

"Among other topics, the motion to recommit addresses the subject of medical liability reform. It includes provisions on compensation, court procedure, and liability for damages.

"As recorded in section 934 of the House Rules and Manual, a general principle of germaneness is that an amendment must confine itself to the committee of jurisdiction over the subject matters contained in the bill. The bill, H.R. 3961, merited referral only to the Committee on Energy and Commerce and the Committee on Ways and Means. The motion to recommit, addressing the subject of medical liability reform, introduces subject matter properly within the jurisdiction of the Committee on the Judiciary.

"The motion is therefore not germane and the point of order is sustained."

Mr. GINGREY appealed the ruling of the Chair.

The question being stated,

Will the decision of the Chair stand as the judgment of the House?

Mr. WAXMAN moved to lay the appeal on the table.

The question being put, viva voce,

Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER pro tempore, Mr. SALAZAR, announced that the yeas had it.

Mr. GINGREY demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 251
affirmative } Nays 177
¶146.17 [Roll No. 907]

So the motion to lay the appeal on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶149.12)

A MOTION TO RECOMMIT A BILL WITH INSTRUCTIONS TO REPORT FORTHWITH AN AMENDMENT CONTAINING REVENUE PROVISIONS THE NET EFFECT OF WHICH WOULD INCREASE THE DEFICIT FOR A RELEVANT PERIOD OF FISCAL YEARS, AS AUTHORITATIVELY ESTIMATED BY THE COMMITTEE ON THE BUDGET, WAS HELD TO VIOLATE CLAUSE 10 OF RULE XXI AND RULED OUT OF ORDER.

THE HOUSE LAID ON THE TABLE AN APPEAL FROM THE RULING OF THE SPEAKER PRO TEMPORE.

On December 3, 2009, Mr. POMEROY made a point of order against consideration of the motion, and said:

"Mr. Speaker, I make a point of order under clause 10 of rule XXI. The motion increases the deficit for purposes of that rule."

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Mr. HELLER was recognized to speak to the point of order and said:

“Mr. Speaker, this point of order shows the blatant inconsistencies the majority has set up with its own rules. On one hand, clause 10 of rule XXI—known as the PAYGO rule—requires amendments, including those contained in motions to recommit like this one, to be budget neutral. On the other hand, clause 7 of rule XVI—known as the germaneness rule—constrains our ability to offer pay-fors by requiring that they be related to the underlying bill.

“These two rules are problematic in today’s case because H.R. 4154 is drafted so narrowly that it is impossible to identify germane offsets. Thus, not surprisingly, the majority has stacked the rules of the House to try to make it impossible for the minority to offer its preferred approach. We saw that 2 weeks ago on the SGR fix and are witnessing it again today as the rules are being used to keep us from offering a full and permanent repeal of the death tax.

“Ironically, the bill before us today, H.R. 4154, doesn’t even meet the House’s own PAYGO rules. That’s right. That is because the budget resolution allows the chairman of the Budget Committee to simply reset the baseline to accommodate a certain amount of death tax relief.

“Mr. Speaker, you are being asked to rule on whether this motion to recommit complies with PAYGO, but the base bill itself is not PAYGO compliant. It would increase the deficit by more than \$230 billion. This begs the question, if it’s appropriate for the majority to consider estate tax relief under H.R. 4154 without offsets, in violation of the spirit of PAYGO, then why is it now inappropriate, or out of order, for the minority to provide even more tax relief under their amendment?”

“I request that you overrule the point of order and allow the House to debate our alternative, which is complete repeal of the death tax.

“Thank you, Mr. Speaker, for the opportunity to be heard on the point of order.”

The SPEAKER pro tempore, Mr. PASTOR of Arizona, sustained the point of order, and said:

“The gentleman from North Dakota makes a point of order that the amendment proposed in the instructions included in the motion to recommit offered by the gentleman from Nevada violates clause 10 of rule XXI by proposing a change in revenues that would increase the deficit.

“Pursuant to clause 10 of rule XXI, the Chair is authoritatively guided by estimates from the Committee on the Budget that the net effect of the provisions in the amendment affecting revenues would increase the deficit for a relevant period.

“Accordingly, the point of order is sustained and the motion is not in order.”

Mr. HELLER appealed the ruling of the Chair.

The question being stated, Will the decision of the Chair stand as the judgment of the House?

Mr. POMEROY moved to lay the appeal on the table.

The question being put, viva voce, Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER pro tempore, Mr. PASTOR of Arizona, announced that the yeas had it.

Mr. HELLER demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 234
affirmative } Nays 186
¶149.13 [Roll No. 927]

So the motion to lay the appeal on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶152.12)

A MOTION TO RECOMMIT A BILL WITH INSTRUCTIONS TO REPORT FORTHWITH AN AMENDMENT CONTAINING REVENUE PROVISIONS THE NET EFFECT OF WHICH WOULD INCREASE THE DEFICIT FOR A RELEVANT PERIOD OF FISCAL YEARS, AS AUTHORITATIVELY ESTIMATED BY THE COMMITTEE ON THE BUDGET, WAS HELD TO VIOLATE CLAUSE 10 OF RULE XXI AND RULED OUT OF ORDER.

THE HOUSE LAID ON THE TABLE AN APPEAL FROM THE RULING OF THE SPEAKER PRO TEMPORE.

On December 9, 2009, Mr. NEAL of Massachusetts, made a point of order against consideration of the motion, and said:

“Mr. Speaker, I make a point of order that the motion before us is in violation of clause 10 of rule XXI of the rules of the House.”

Mr. CAMP was recognized to speak to the point of order and said:

“Mr. Speaker, this point of order illustrates the dangers raised by the majority’s PAYGO rule and its decision at the start of this Congress to prohibit us from offering motions to recommit that are not PAYGO compliant, something that all minorities, Republican and Democrat, over the last many years have been permitted to do in prior sessions, including as recently as last year.

“The majority has asserted the motion to recommit violates clause 10 of rule XXI, known as the PAYGO rule, which requires amendments, including those contained in a motion to recommit, to be budget neutral.

“I submit, Mr. Speaker, that his point of order should be overturned because it precludes the House from considering the merits of a different approach to the underlying bill, one that

would let the American people keep more of their hard-earned income.

“By contrast, granting the PAYGO point of order would prevent the House from considering whether to extend this tax relief, as it has done many times before, without offsets. We should be encouraging business investment, not discouraging it through higher taxes.

“Let’s be clear. This carried interest tax of over \$25 billion changes how business income has been taxed for decades, making income currently taxed at 15 percent up to 30 percent, more than doubling it.

“Mr. Speaker, granting this point of order would foreclose the House from even considering whether it might want to pass this bill with fewer offsets or further tax relief.

“Accordingly, I ask that you overrule the point of order and allow the House to debate and vote on our alternative, which would provide additional tax relief for families and small businesses without some of the most objectionable offsets found in the underlying bill.”

The SPEAKER pro tempore, Mr. DRIEHAUS, sustained the point of order, and said:

“The gentleman from Massachusetts makes a point of order that the amendment proposed in the instructions included in the motion to recommit offered by the gentleman from Michigan violates clause 10 of rule XXI by proposing a change in revenues that would increase the deficit.

“Pursuant to clause 10 of rule XXI, the Chair is authoritatively guided by estimates from the Committee on the Budget that the net effect of the provisions in the amendment affecting revenues would increase the deficit for a relevant period.

“Accordingly, the point of order is sustained and the motion is not in order.”

Mr. CAMP appealed the ruling of the Chair.

The question being stated, Will the decision of the Chair stand as the judgment of the House?

Mr. NEAL of Massachusetts, moved to lay the appeal on the table.

The question being put, viva voce, Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER pro tempore, Mr. DRIEHAUS, announced that the yeas had it.

Mr. CAMP demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 251
affirmative } Nays 172
¶152.13 [Roll No. 942]

So the motion to lay the appeal on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to

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was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶153.5)

PURSUANT TO SECTION 426(B)(4) OF THE CONGRESSIONAL BUDGET ACT OF 1974, A MEMBER WHO MAKES A POINT OF ORDER UNDER SECTION 426(A) OF THE ACT AND SATISFIES THE THRESHOLD BURDEN SPECIFIED IN SECTION 426(B)(2) OF THE ACT BY CITING LANGUAGE IN THE RESOLUTION THAT WAIVES THE APPLICATION OF SECTION 425 OF THE ACT IS RECOGNIZED TO CONTROL ONE-HALF OF THE 20 MINUTES PROVIDED FOR DEBATE ON THE QUESTION OF CONSIDERATION.

PURSUANT TO SECTION 426(B)(3) OF THE CONGRESSIONAL BUDGET ACT OF 1974, AS DISPOSITION OF A POINT OF ORDER RAISED UNDER SECTION 426(A) OF THE ACT, THE CHAIR PUTS THE QUESTION OF CONSIDERATION WITH RESPECT TO THE PROPOSITION THAT IS THE OBJECT OF THE POINT OF ORDER.

On December 10, 2009, Mr. FLAKE made a point of order against consideration of the resolution, and said:

"Mr. Speaker, I will raise a point of order against House Resolution 961 because the resolution violates section 426(a) of the Congressional Budget Act. The resolution carries a waiver of all points of order against consideration of the conference report, which includes a waiver of section 425 of the Congressional Budget Act which causes a violation of section 426(a)."

The SPEAKER pro tempore, Mr. BLUMENAUER, responded to the point of order, and said:

"The gentleman from Arizona [Mr. FLAKE] makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

"In accordance with section 426(b)(2) of the Act, the gentleman from Arizona has met the threshold burden to identify the specific language in the resolution on which the point of order is predicated.

"Pursuant to section 426(b)(3) of the Act, after debate, the Chair will put the question of consideration, to wit: 'Will the House now consider the resolution?'"

Mr. FLAKE was further recognized and said:

"Mr. Speaker, I raise this point of order not so much out of a concern for unfunded mandates, but again, it's about the only opportunity we have to stand up and talk about the process by which this conference report is being brought to the floor.

"We all remember that earlier this year we had something unprecedented happen. We have never in the history of the Republic ever had every appropriation bill come to the floor under a closed rule where Members from both sides of the aisle were denied the ability to offer amendments.

"Now, until a decade or two ago, appropriation bills typically came to the floor without even going through the

Rules Committee at all. It would simply come under an open rule, and amendments would be disposed of on the floor and there would be open debate.

"A couple of decades ago, we started to go to the Rules Committee, but only to set overall parameters. It was still an open rule, and any Member could offer any amendment to strike funding or move funding around within the bill as long as it was germane. But this year we were told by the majority that we had to rush this legislation through, these appropriation bills.

"Remember, the main reason Congress is here is because of the power of the purse. It's article 1: to dispose of funding legislation, to fund the agencies of the Federal Government. So that is the important reason we're here.

"But we were told we had to rush that through and had to do it under what amounts to a form of legislative martial law where every appropriation bill this year, every one, came to the floor under a closed rule. Members were denied the ability to offer the amendments they wanted to offer. They could only offer the amendments that the Rules Committee saw fit for them to offer.

"Over 1,000 amendments were offered. Just 12 percent of those amendments were actually allowed onto the House floor. Now, I was fortunate to have a number of those amendments allowed. Some of my colleagues came to the floor or came to the Rules Committee over and over again with multiple amendment requests on every bill, and in the entire year, not allowed one, not one amendment. We had several members not allowed one amendment the entire year because we had to rush these bills through for some unknown reason. We were told that we had to do this because we wanted to avoid an omnibus.

"Well, here we are with an omnibus. This is a bill that spends north of a trillion dollars, one bill brought to the floor under one rule. And in it, let me tell you what's in it.

"Let me just tell you what is in it. In it is more than 5,000 earmarks."

Mr. DREIER was recognized to speak to the point of order and said:

"Mr. Speaker, I congratulate him for his remarks. Basically it's what I'm going to say when we begin the process here. But one of the arguments that has been propounded and was utilized up in the Rules Committee last night was that when we completed our work here in the House of Representatives, that it was our friends on the other side of the Capitol who did not comply with the kind of schedule that we had. And the fact is, it's important to remember that there are 58 Democrats and two Independents who organize with the Democrats in the United States Senate, giving them a total of 60 votes, and they have complete control. And so the notion of somehow saying, 'Well, we had to get our work done. We had intended to avoid an omnibus if we

had been able to complete our work, but it's those guys over on the other side of the Capitol who failed to meet their responsibilities" is a very, very specious and weak argument to make in light of the fact that they have control of everything now."

Mr. MCGOVERN was recognized to speak to the point of order and said:

"I have great respect for my colleague from Arizona, but technically, this point of order is about whether or not to consider this rule and ultimately the underlying conference report. In reality, it is about trying to block this report without any opportunity for debate and without any opportunity for an up-or-down vote on the legislation itself. I think that is wrong, and I hope my colleagues will vote "yes" so we can consider this important legislation on its merits and not stop it on a procedural motion. Those who oppose the conference report can vote against it on final passage. We must consider this rule, we must have a debate, and we must pass this legislation today.

"I have the right to close, but in the end, I will urge my colleagues to vote "yes" to consider the rule."

Mr. FLAKE was further recognized and said:

"Here again, I'm claiming my time on the unfunded mandates point of order because it's about the only opportunity we've had. And all throughout this appropriations season, I did something similar because it was the only opportunity I got. I was offered so few opportunities to offer amendments to earmarks during this appropriations season.

"But let me just give you some of the examples of earmarks that are in this bill, just a couple of examples of the more than 5,000 earmarks that are stuffed into this legislation; again, earmarks that, for the most part, we were unable to challenge on the House floor because we weren't afforded the opportunity.

"We made a law in the past couple of years, and I'm glad we have, about transparency, to make sure that Members' names are next to the earmarks they request. But as important as transparency is, accountability must also be present. And without the ability of Members to challenge those earmarks, then transparency doesn't mean a whole lot. And we haven't had the ability to have accountability here.

"In this legislation, \$125,000 goes for the defense procurement assistance program in southwestern Pennsylvania. Now, those who follow the appropriations process around here, particularly with Defense Appropriations, realize that southwestern Pennsylvania needs help with defense procurement like Arizona needs more cactus. This is a region that gets billions and billions of dollars in no-bid contracts to private companies, and yet we are appropriating here an earmark, a specifically designated earmark, for defense procurement assistance. Now, how ridiculous is that? Yet, it's in this

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legislation, and it was in the prior legislation that we dealt with under, as I said, the legislative equivalent of martial law earlier this year.

"There's \$500,000 for the Botanical Research Institute of Texas to enhance its collections; \$292,000 to eliminate slum and blight in Scranton, Pennsylvania; \$700,000 for an arts pavilion in Mississippi; \$300,000 for Carnegie Hall music and education programs in New York.

"Again, these may well be worthy programs. I'm not sure the Federal Government ought to be funding them. But, in any case, should any Member have the right to designate that portion of funding for his or her district without the ability of other Members to challenge it on the House floor? That is the question we have here.

"We went through a process the entire year where we were told we can't have open debate, we can't allow Members to challenge these earmarks on the House floor because we have to rush these bills through to avoid an omnibus. Here we are in December with an omnibus. We all knew we would be here.

"During the years 2006 to 2008 when the majority party was in the majority of Congress but the Republicans had the White House, we were told, 'Well, we could get these bills through in regular order were it not for the White House.' Now, as the ranking member on the Rules Committee stated, the majority party is in control of the White House, has a huge majority here in the House and a 60-vote majority in the Senate, and still we are here with an omnibus. We knew we would be here. So you can only conclude that we rushed through this process during the entire year just to shield Members from uncomfortable votes to be forced to defend \$250,000 for the Brooklyn Children's Museum or \$600,000 for streetscape beautification in California and \$250,000 for a farmer's market in Kentucky. If it weren't for that, why in the world did we have to shield Members from these uncomfortable votes?

"So, Mr. Speaker, I simply wanted something different to come with this new majority in 2006. I wanted a transparent process with earmarks, wanted an accountable process with earmarks. But this year, I have to say, with the closed rules that have come on appropriations bills, we haven't had a more opaque year in a long, long time, and it doesn't speak well for this House. It doesn't speak well for our leadership to allow this kind of thing to happen, and particularly at a time when we have story after story after story in the newspapers about, particularly, problems with defense procurement, when you have no-bid contracts to private companies that are in legislation that we aren't allowed to challenge.

"I realize the Defense bill is not part of this legislation. That will come next week. But it will come again with one rule, no ability to amend and no ability to challenge. When that Defense bill came to the floor earlier this year,

there were more than 1,000 earmarks, more than 500 of which represented no-bid contracts to private companies. I offered more than 500 amendments to challenge some of those, and I was allowed just a tiny fraction of those. I think I was allowed 8 percent of the amendments that were offered, and so we are only allowed to challenge just a fraction of those no-bid contracts to private companies. And that, Mr. Speaker, is simply wrong.

"We cannot continue to do that in this House. We need to be above reproach here. And we can't have a process when you have no-bid contracts to private companies without the ability of Members of Congress to come to this floor and challenge those earmarks. When you have a process that shields those projects and those Members from any vetting or criticism or debate or anything else, we shouldn't be doing that, yet we are still doing it.

"With that, I urge to overturn this rule.

Mr. MCGOVERN was further recognized and said:

"Mr. Speaker, again, I want to urge my colleagues to vote 'yes' on this motion to consider so that we can debate and pass this important piece of legislation today."

After debate,

The question being put, viva voce,

Will the House now consider the resolution?

The SPEAKER pro tempore, Mr. BLUMENAUER, announced that the yeas had it.

So, the House decided to consider said resolution.

A motion to reconsider the vote whereby the House decided to consider the resolution was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶157.14)

PURSUANT TO SECTION 426(B)(4) OF THE CONGRESSIONAL BUDGET ACT OF 1974, A MEMBER WHO MAKES A POINT OF ORDER UNDER SECTION 426(A) OF THE ACT AND SATISFIES THE THRESHOLD BURDEN SPECIFIED IN SECTION 426(B)(2) OF THE ACT BY CITING LANGUAGE IN THE RESOLUTION THAT WAIVES THE APPLICATION OF SECTION 425 OF THE ACT IS RECOGNIZED TO CONTROL ONE-HALF OF THE 20 MINUTES PROVIDED FOR DEBATE ON THE QUESTION OF CONSIDERATION.

PURSUANT TO SECTION 426(B)(3) OF THE CONGRESSIONAL BUDGET ACT OF 1974, AS DISPOSITION OF A POINT OF ORDER RAISED UNDER SECTION 426(A) OF THE ACT, THE CHAIR PUTS THE QUESTION OF CONSIDERATION WITH RESPECT TO THE PROPOSITION THAT IS THE OBJECT OF THE POINT OF ORDER.

On December 16, 2009, Mr. FLAKE made a point of order against consideration of said resolution, and said:

"Madam Speaker, I raise a point of order against House Resolution 976 because the resolution violates section

426(a) of the Congressional Budget Act. The resolution contains a waiver of all points of order against consideration of the legislation, which includes a waiver of section 425 of the Congressional Budget Act, which causes a violation of section 426(1)."

The SPEAKER pro tempore, Ms. BALDWIN, responded to the point of order, and said:

"The gentleman from Arizona [Mr. FLAKE] makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

"In accordance with section 426(b)(2) of the Act, the gentleman from Arizona has met the threshold burden to identify the specific language in the resolution on which the point of order is predicated.

"Pursuant to section 426(b)(3) of the Act, after debate, the Chair will put the question of consideration, to wit: 'Will the House now consider the resolution?'"

Mr. FLAKE was further recognized and said:

"Madam Speaker, approximately 68 years ago, in January of 1941, Sam Rayburn was elected Speaker of the House of Representatives. Just prior to his swearing in, he rose on the House floor and said the following:

"You have elevated me to a position, I must confess, that has been one of the ambitions of my lifetime. The House of Representatives has been my life and my love for this more than a quarter of a century. I love its traditions; I love its precedents; I love its dignity; I glory in the power of the House of Representatives. It is my highest hope and my unswerving aim to preserve, protect, and defend the rights, prerogatives, and the power of the House of Representatives."

"What a beautiful statement. You can't help but hear and feel the words of love that Speaker Rayburn felt for this House. As Speaker, he considered himself a custodian of its traditions, its precedents and, as he put it, its dignity.

"You might ask why I tell this story, why I raise this point. It is because we are about to consider a bill that endorses and condones a practice that has placed a dark and ominous cloud over this institution. This practice, for lack of a better term, can be called circular fund-raising. It involves the awarding of earmarks, which are essentially no-bid contracts, in close proximity to the receipt of campaign contributions from the earmark recipients.

"This legislation contains more than 500 earmarks where a private, for-profit company is the intended recipient. Let me repeat that. This legislation we are about to consider contains more than 500 earmarks, or no-bid contracts, directed to private companies. In many cases, the Members of the Congress securing these no-bid contracts have either received, or will soon receive after this legislation is enacted into law, large campaign contributions from the executives of these companies and/or the lobbyists that represent them.

QUESTIONS OF ORDER

"By now my colleagues are well aware of the PMA scandal which was largely centered on the practice of circular fund-raising. Since news broke in February 2008 of the FBI's raid of the PMA offices, press reports and editorials from coast to coast have raised questions about the action of that firm and the integrity of this body, sowing public distrust and tarnishing the dignity of the House. Just listen to what is being said off the Hill and beyond the beltway.

"ABC's news site, The Blotter, noted that PMA's "operations—millions out to lawmakers, hundreds of millions back in earmarks for clients—have made it, for many observers, the poster child for tacit 'pay-to-play' politics in Washington.

"An editorial in The New York Times entitled, 'Political Animal 101' referred to 'the relationship between campaign donors and the customized appropriations they are fed by grateful lawmakers' as 'the ultimate in symbiotic survival' and 'cynical influence trading.'

"An article in The Kansas City Star noted that 'the earmark game gets a bit less baffling' when taxpayers consider 'the campaign donors that grease political palms.'

"The Columbus Dispatch summed it up when they noted, 'Congress has an abysmal public approval rating of 26 percent as of early November, and the smell of quid pro quo certainly doesn't help.'

"The embarrassing coverage isn't just limited to domestic press. The Irish Times noted that 'U.S. Congressmen tread a fine line between legitimate political fund-raising and influence-peddling, between friendship with lobbyists and outright corruption.' They go on, 'Now a leaked confidential report, prepared by the committee (on Ethics) in July and detailed in yesterday's Washington Post, has provided a rare glimpse into the cesspool of Capitol Hill politics.'

"Madam Speaker, I have here that article referred to from The Washington Post dated October 30 of this year. It notes that seven Members who sit on the Appropriations Committee, the Subcommittee on Defense, are 'under scrutiny by ethics investigators.' The article notes that "Together, the seven legislators have personally steered more than \$200 million in earmarks to clients of the PMA Group in the past 2 years, and received more than \$6.2 million in campaign contributions from PMA and its clients in the past decade.'

"According to The Wall Street Journal, Members who sit on the Defense Subcommittee have this year alone 'received a total of \$141,000 in campaign contributions from companies that received earmarks from the lawmakers.'

"So here we are today, Madam Speaker, with a backdrop of investigations into the practice of circular fund-raising by the Justice Department and our own Ethics Committee, yet we are poised to pass a Defense appropriations

bill that contains more than 500 no-bid contracts for private companies.

"In mid-January of 2010, we will see a quarterly report from the Office of Congressional Ethics that will shed light into their investigations. Thereafter, it is likely that our own Ethics Committee will have to provide additional notice of their actions related to the PMA scandal.

"If the future is anything like the past, additional scandals will spring from the earmarks that we approve today. We are surely, as the poet said, 'traipsing down a flower-strewn path unpricked by thorns of reason.'

"I should note that circular fund-raising is not a partisan issue; both parties engage in it. The cloud that hangs over this body rains on Republicans and Democrats alike. But it is fair to ask, what about the dignity of this body? Are we appropriately concerned that the words 'pay-to-play,' 'quid pro quo,' 'swamp' and 'cesspool' are increasingly routine in articles describing the appropriations process? Should we have no standard higher than whether the abuse of the process rises to the level of an indictable offense?

"One thing is clear: The practice of circular fund-raising will someday end. The question is, who will end it? Will it take us, in our own initiative, to clean our own House, or will we wait for the Justice Department to launch more investigations and take further action?

"My own hope is that those who find themselves in leadership positions today will summon the dormant custodial spirit of those who have protected and defended this wonderful institution long before we arrived in this Chamber. We owe it to them to correct the process that led to this flawed piece of legislation before us."

Ms. PINGREE of Maine, was recognized to speak to the point of order and said:

"Madam Speaker, as my colleagues know, we have been here before. This is the same point of order that has been raised against almost every appropriations measure during this Congress, and each time it is used to discuss something other than its intended purpose.

"I would want to respond to my good colleague from Arizona that I, too, share concerns about the earmarking process, and I encourage him to become a cosponsor on the fair elections bill. As we have in Maine, public financing takes away much of the scrutiny around the link between campaign contributions and earmarks.

"But once again, this particular debate is about delaying consideration of this bill and ultimately stopping it altogether. I hope my colleagues will again vote 'yes' so we can consider this important legislation on its merits and not stop it on a procedural motion.

"This rule provides for enactment of legislation to fund our Nation's defense. The brave men and women who serve in the military, particularly those who are currently at war in Iraq

and Afghanistan, deserve a swift enactment of this legislation.

"This legislation that we will take up later today will also divert TARP money to programs that create and save jobs across the country. We do this by investing \$75 billion of TARP money into highways, transit, school renovation, hiring teachers, police, firefighters, supporting our small businesses, funding job training, and affordable housing. And for those hardest hit by the recession, this bill also provides emergency relief by extending programs like unemployment benefits, COBRA, FMAP, our health care funding for the State, and the child care tax credit.

"Those who oppose this measure can vote against it on final passage. We must consider this rule, and we must pass this critical legislation today.

"I have the right to close, but in the end I will urge my colleagues to vote 'yes' and consider the rule."

Mr. FLAKE was further recognized and said:

"I am accused of using a procedural measure to bring up earmarks again. Let me tell you why I'm doing that. I'm doing that because this year, for the first time in the history of this institution, every appropriations bill that came to the floor—including this one, including the Defense appropriations bill—came under a structured or closed rule with only certain amendments being offered. That's the first time in the history of this institution where every appropriations bill has come to the floor in that manner.

"And so individuals like myself and others were only allowed to offer the amendments that the other side wanted us to offer, the ones that they said we could offer rather than the ones that we ourselves would choose. I was fortunate in that I got 10 of the 550-some amendments I offered on this bill. I offered that many because that's how many no-bid contracts for private companies are contained in the bill, and I thought that they deserved some scrutiny.

"I wish that the Appropriations Committee was vetting these earmarks; given this, it's clear that they're not. This is one of hundreds of articles out there. There is a cloud hanging over this institution because of prior Defense bills, and this is going to end up the same way. We are guaranteeing that there will be scandal that springs from earmarks approved in this bill because they haven't been appropriately vetted, and they haven't been because we weren't allowed an open rule for people to bring to the floor amendments that they wanted to offer.

"I mentioned that I was fortunate in that I got 10 of them. Some of my colleagues offered multiple amendments on multiple appropriations bills throughout the year and weren't given the opportunity to offer any of them, not one. Here are Members across the country wanting to represent their constituents, and through the entire appropriations process, 12 bills this

QUESTIONS OF ORDER

year, weren't given the opportunity to offer one amendment because we have the equivalent of martial law on appropriations bills.

"And why? Because we were told we had to get it done so we wouldn't do any omnibus bills at the end of the year. Well, here we are, we just approved a massive omnibus bill last week, and we're here today because the Defense bill was held just so that we could tag on additional items that people who wouldn't want to vote for them anyway would have to because it's a Defense bill. That's just no way to conduct business. This institution deserves better than this. It deserves better than to have a bill that has more than 500 no-bid contracts for private companies of which articles have been written and will be written, making a cloud hang over this body.

"As I mentioned, this isn't a partisan issue. This isn't where one party is in the right and one party is in the wrong. We are both doing this, and we shouldn't. And it will come back to haunt us as surely as other practices have in the past."

Ms. PINGREE of Maine, was further recognized and said:

"Madam Speaker, again I want to urge my colleagues to vote 'yes' on this motion to consider so that we can debate and pass this and the other important items covered by this rule."

After debate,

The question being put, *viva voce*,

Will the House now consider the resolution?

The SPEAKER pro tempore, Ms. BALDWIN, announced that the yeas had it.

So the House decided to consider said resolution.

A motion to reconsider the vote whereby the House decided to consider the resolution was, by unanimous consent, laid on the table.

SUBPOENAS RECEIVED PURSUANT TO RULE L

On January 7, 2009, the SPEAKER pro tempore, Mr. YARMUTH, laid before the House a communication, which was read as follows:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE GENERAL COUNSEL,
Washington, DC, January 6, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a civil subpoena, issued by the Superior Court for the District of Columbia, for the production of documents.

After consultation with the Office of General Counsel, I will make the determinations required by Rule VIII.

Sincerely,

DANIEL P. BEARD,
Chief Administrative Officer.

On January 16, 2009, the SPEAKER pro tempore, Ms. EDWARDS of Maryland, laid before the House a communication, which was read as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, January 9, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for testimony and documents issued by the Court of Common Pleas for Wayne County, Pennsylvania.

After consultation with the Office of General Counsel, I will make the determinations required by Rule VIII.

Sincerely,

APRIL METWALLI,
Chief of Staff.

On January 16, 2009, the SPEAKER pro tempore, Ms. EDWARDS of Maryland, laid before the House a communication, which was read as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, January 9, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for testimony issued by the Court of Common Pleas for Wayne County, Pennsylvania.

After consultation with the Office of General Counsel, I will make the determinations required by Rule VIII.

Sincerely,

JOE FABRICATORE,
Constituent Services Director.

On January 16, 2009, the SPEAKER pro tempore, Ms. EDWARDS of Maryland, laid before the House a communication, which was read as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, January 9, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for testimony and documents issued by the Court of Common Pleas for Wayne County, Pennsylvania.

After consultation with the Office of General Counsel, I will make the determinations required by rule VIII.

Sincerely,

CHRISTOPHER P. CARNEY,
Member of Congress.

On February 12, 2009, the SPEAKER pro tempore, Ms. DEGETTE, laid before the House a communication, which was read as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 12, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
The Capitol, Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena, issued in the U.S. District Court for the Eastern District of Virginia, for testimony in a criminal case.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

ROBERTA HOPKINS,
Deputy Chief of Staff.

On February 12, 2009, the SPEAKER pro tempore, Ms. DEGETTE, laid before the House a communication, which was read as follows:

FEBRUARY 12, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena, issued in the U.S. District Court for the Eastern District of Virginia, for testimony in a criminal case.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

ANGELLE B. KWEMO,
Counsel.

On March 19, 2009, the SPEAKER pro tempore, Mr. KISSEL, laid before the House a communication, which was read as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 16, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena, issued in the Superior Court of California, County of Shasta for testimony in a criminal case.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

DAVID MEURER,
Field Representative.

On March 23, 2009, the SPEAKER pro tempore, Mr. LARSEN of Washington, laid before the House a communication, which was read as follows:

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COMMITTEE ON ARMED SERVICES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 19, 2009.
Hon. NANCY PELOSI,
Speaker, House of Representatives, Washington,
DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena, issued in the U.S. District Court for the Eastern District of Virginia, for testimony in a criminal case.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

PAUL ARCANGELI,
Deputy Staff Director.

On May 18, 2009, the SPEAKER pro tempore, Mrs. CAPPS, laid before the House a communication, which was read as follows:

BOBBY L. RUSH,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 15, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena, issued in the U.S. District Court for the Eastern District of Virginia, for testimony in a criminal case.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

ANGELLE KWEMO,
Counsel.

On May 18, 2009, the SPEAKER pro tempore, Mrs. CAPPS, laid before the House a communication, which was read as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 12, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena, issued in the U.S. District Court for the Eastern District of Virginia, for testimony in a criminal case.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

ROBERTA HOPKINS,
Deputy Chief of Staff.

On June 2, 2009, the SPEAKER pro tempore, Mr. LARSEN of Washington, laid before the House a communication, which was read as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 1, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a grand jury subpoena for documents issued by the U.S. District Court for the District of Columbia.

After consultation with counsel, I will make the determinations required by Rule VIII.

Sincerely,

CHARLES E. BRIMMER,
Chief of Staff.

On June 2, 2009, the SPEAKER pro tempore, Mr. LARSEN of Washington, laid before the House a communication, which was read as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 1, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that my office has been served with two grand jury subpoenas for documents issued by the U.S. District Court for the District of Columbia.

After consultation with counsel, I will make the determination required by Rule VIII.

Sincerely,

PETER J. VISCLOSKEY,
Member of Congress.

On July 21, 2009, the SPEAKER pro tempore, Mr. MAFFEI, laid before the House a communication, which was read as follows:

OFFICE OF ATTENDING PHYSICIAN,
U.S. CAPITOL,
Washington, DC, July 21, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for trial testimony issued by the U.S. District Court for the Eastern District of Virginia in connection with a criminal case now pending in that court.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and rights of the House.

Sincerely,

JUSTIN COX,
Physician.

On September 8, 2009, the SPEAKER pro tempore, Mrs. DAHLKEMPER, laid before the House a communication, which was read as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, August 17, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives, Washington,
DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the

Rules of the House of Representatives, that I have been served with a subpoena, issued in the U.S. District Court for the Eastern District of California, for testimony in a criminal case.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

DONNA J. DAMI,
Special Projects.

On September 9, 2009, the SPEAKER pro tempore, Mr. HOLDEN, laid before the House a communication, which was read as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, August 11, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for documents issued by the Ohio Elections Commission.

After consultation with counsel, I will make the determinations required by Rule VIII.

Sincerely,

JEAN SCHMIDT,
Member of Congress.

On September 21, 2009, the SPEAKER pro tempore, Mr. WELCH, laid before the House a communication, which was read as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, September 18, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that my office has been served with a subpoena, issued by the U.S. District Court for the Northern District of Texas, for documents in a civil case.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is inconsistent with the precedents and privileges of the House.

Sincerely,

JOE BARTON,
Ranking Member.

On September 29, 2009, the SPEAKER pro tempore, Mr. TONKO, laid before the House a communication, which was read as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 28, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives, Washington,
DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for deposition testimony issued by the District court of Caldwell, State of North Carolina in connection with a civil case now pending in the same court.

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After consultation with the Office of General Counsel, I will make the determinations required by Rule VIII.

Sincerely,

PATRICK T. MCHENRY,
Member of Congress.

On November 6, 2009, the SPEAKER pro tempore, Mr. SCHARDER, laid before the House a communication, which was read as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, November 2, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives, Washington, DC

DEAR MADAME SPEAKER: This is to notify you formally, pursuant to rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for testimony and production of documents issued by the Superior Court of California, County of Yolo, in connection with a traffic court matter now pending in the same court.

After consultation with the Office of the General Counsel, I have determined that compliance with the subpoena is inconsistent with the precedents and privileges of the House.

Sincerely,

PETE STARK,
Member of Congress.

On December 1, 2009, the SPEAKER pro tempore, Mr. JACKSON of Illinois, laid before the House a communication, which was read as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, November 24, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives, Washington, DC.

DEAR MADAME SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for testimony issued by the United States District

Court for the Eastern District of Virginia in connection with a criminal case now pending in the same court.

After consultation with the Office of the General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

MOHAMED ABBAMIN,
Legislative Assistant.

On December 1, 2009, the SPEAKER pro tempore, Mr. JACKSON of Illinois, laid before the House a communication, which was read as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, November 24, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives, Washington, DC.

DEAR MADAME SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for testimony issued by the United States District Court for the Eastern District of Virginia in connection with a criminal case now pending in the same court.

After consultation with the Office of the General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

NKECHI GEORGE-WINKLER,
Legislative Assistant.

On December 2, 2009, the SPEAKER pro tempore, Ms. KOSMAS, laid before the House a communication, which was read as follows:

OFFICE OF THE
CHIEF ADMINISTRATIVE OFFICER,
Washington, DC, December 1, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives, Washington, DC.

DEAR MADAME SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for production of documents issued by the U.S. District Court for the District of Connecticut, in connection with a criminal matter now pending in the same court.

After consultation with the Office of the General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

DANIEL P. BEARD.

On December 9, 2009, the SPEAKER pro tempore, Mr. JACKSON of Illinois, laid before the House a communication, which was read as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, December 9, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives, Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a third-party subpoena for production of documents issued by the U.S. District Court for the District of Maryland, in connection with a civil matter now pending in that court.

After consultation with the Office of the General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

JOHN SARBANES,
Member of Congress.