

QUESTIONS OF ORDER

DECIDED IN THE HOUSE OF REPRESENTATIVES AT THE SECOND SESSION OF THE ONE HUNDRED THIRD CONGRESS

HON. THOMAS S. FOLEY, OF WASHINGTON, SPEAKER;
DONNARD K. ANDERSON, OF CALIFORNIA, CLERK

PRIVILEGES OF THE HOUSE (¶16.10)

A RESOLUTION RECITING THE REQUEST OF A UNITED STATES ATTORNEY THAT THE HOUSE DEFER AN INQUIRY INTO THE OPERATION OF ITS FORMER POST OFFICE LEST IT COMPROMISE AN ONGOING CRIMINAL INVESTIGATION, AND RESOLVING THAT THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT DEFER ANY INVESTIGATION UNTIL ASSURED THAT IT WOULD NOT INTERFERE WITH THE CRIMINAL INVESTIGATION, GIVES RISE TO A QUESTION OF PRIVILEGES OF THE HOUSE UNDER RULE IX.

On March 2, 1994, Mr. GEPHARDT rose to a question of the privileges of the House and submitted the following resolution (H. Res. 375):

Whereas the House is on notice pursuant to Rule IX that it may soon consider a proposal to direct the Committee on Standards of Official Conduct to investigate the former operations of the House Post Office;

Whereas matters relating to the former operations of the House Post Office are the subject of an ongoing criminal investigation by the United States Attorney of the District of Columbia;

Whereas pursuant to its rules, the Committee on Standards of Official Conduct traditionally defers inquiry with respect to a matter that is the subject of an ongoing investigation by an appropriate law enforcement or regulatory authority;

Whereas the Committee on Standards of Official Conduct has on several occasions agreed to defer inquiry with respect to the former operations of the House Post Office, and has deferred inquiry in other matters regarding current Members where investigations by other authorities are proceeding;

Whereas by letters of November 25, 1992, September 9, 1993, and October 26, 1993, then Assistant Attorney General Lee Rawls, then United States Attorney J. Ramsey Johnson, and current United States Attorney Eric Holder, respectively, requested that the Committee on Standards of Official Conduct defer any inquiry into the former operations of the House Post Office and related matters;

Whereas on February 23, 1994, the United States Attorney of the District of Columbia delivered the following letter to the Speaker and the Republican Leader:

DEPARTMENT OF JUSTICE,

Washington, DC, February 23, 1994.

Hon. THOMAS S. FOLEY,

Speaker, House of Representatives, Washington, DC.

Hon. ROBERT H. MICHEL,

Minority Leader, House of Representatives, Washington, DC.

DEAR MR. SPEAKER AND CONGRESSMAN MICHEL: I am writing to express my concern that certain actions reportedly being considered by the House of Representatives could significantly damage a criminal investigation being actively pursued by this Office. Like my two immediate predecessors as United States Attorney for this District, Jay B. Stephens and J. Ramsey Johnson, I urge the House to refrain from such actions, and to affirm the paramount public interest in

permitting the grand jury to determine fairly whether the criminal laws have been violated, whether by Members of Congress or others. My request is all the more urgent now, as this important investigation is in its final stages and will be concluded in the near future.

As you know, the United States Attorney's Office, in conjunction with a federal grand jury, has been conducting a criminal investigation of matters that related originally to the operation of the House Post Office. That original phase of the investigation, which has resulted in the criminal convictions of seven former employees of the House Post Office and one former congressional aide, reached its most significant point so far in July 1993, with the guilty plea of former House Postmaster Robert V. Rota. With the cooperation of Mr. Rota, the investigation turned to allegations of criminal conduct by other individuals, specifically Members of Congress who conducted certain financial transactions through the House Post Office. This aspect of the investigation is continuing.

As you also are aware (because of disclosures mandated by House Rule 50) in the last few months the grand jury's investigation has expanded to include additional allegations of criminal misconduct beyond those tied to the House Post Office, including matters involving the House Finance Office and the House Office Supply Service (known as the House Stationery Store). These relatively recent additional developments are now fully within the purview of the grand jury's criminal investigation.

It is my understanding, however, that despite the existence of this active and important criminal investigation, the House may soon be asked to vote on House Resolution 238. This resolution would specifically direct the Committee on Standards of Official Conduct to investigate whether Members of Congress received cash from the House Post Office.

Inquiry into these matters by a committee of the House would pose a severe risk to the integrity of the criminal investigation. Inevitably, any such inquiry would overlap substantially with the grand jury's activities. Among other concerns, the House certainly would seek to interview the same witnesses or subjects who are central to the criminal investigation. Such interviews could jeopardize the criminal probe in several respects, including the dangers of congressional immunity, of Speech-or-Debate issues, and of unwarranted public disclosure of matters at the core of the criminal investigation. This inherent conflict would be greatly magnified by the fact that the House would be investigating matters that are criminal in nature, and would be covering essentially the same ground as the grand jury. This Office had occasion to voice similar concerns during the operations-and-management review of the House Post Office that was conducted by a task force of the Committee on House Administration; yet that review as far more limited in scope, and far easier to separate from the criminal probe, than the investigation required by House Resolution 238.

These threats to the grand jury investigation would not be lessened by the portion of the resolution that would permit the Committee to defer its inquiry as to any particular Member, if the Department of Justice stated in writing that that Member was being investigated. Wholly apart from the legal issues involved in the Justice Department's identifying individuals who are under criminal investigation, the idea of excluding the conduct of one or more identified individuals from the congressional inquiry does almost nothing to protect the integrity of the overall criminal investigation. That investigation encompasses the interrelated conduct of numerous persons, and cannot be divided and compartmentalized in such a manner.

I and my predecessors have acknowledged the importance to the House of its ability to review and police the internal operations, management, and procedures of congressional institutions. In particular, we are sensitive to the special responsibility of the Committee on Standards of Official Conduct to examine possible violations of House ethical standards. Nevertheless, it is unquestionably the province of the grand jury to investigate, without interference, specific criminal allegations against particular individuals, regardless of who they may be or to what institution of government they may belong. Moreover, the vital public interest in fair and effective law enforcement requires that any such investigation be shielded vigorously from actions that might endanger its integrity.

For these reasons, it has been the consistent position of this Office, throughout the life of the investigation, that the House should defer its own inquiries until the grand jury investigation is completed. I make that request of you again now, in the strongest possible terms. I ask the House of Representatives to forbear from any proposed actions or inquiries in the areas covered by the grand jury's ongoing criminal investigation, both in order to avoid compromising that investigation at this late stage, and in order to further the public interest in preserving the fairness, thoroughness, and confidentiality of the grand jury process.

Thank you for your attention to this important matter.

ERIC H. HOLDER, Jr.,

U.S. Attorney.

Whereas, the House should exercise particular caution so as not to impede, delay, or otherwise interfere with an ongoing criminal investigation that may involve its own Members; Therefore, be it

Resolved, That the House supports the decision of the Committee on Standards of Official Conduct to defer inquiry on matters relating to the former operation of the House Post Office; and be it

Further resolved, That the Committee on Standards of Official Conduct shall continue to consult with the United States Attorney and continue to review its decision to defer inquiry in this matter. At such time as the Committee determines that a Committee inquiry would no longer interfere with the criminal investigation, the Committee shall proceed, pursuant to its rules, with such inquiry as it deems appropriate.

QUESTIONS OF ORDER

The SPEAKER pro tempore, Mr. HOYER, ruled that the resolution submitted did present a question of the privileges of the House under rule XI, and recognized Mr. GEPHARDT and Mr. GRANDY, each for 30 minutes.

PRIVILEGES OF THE HOUSE

(¶16.13)

A RESOLUTION ALLEGING WRONGDOING IN THE OPERATION OF THE FORMER HOUSE POST OFFICE, AND RESOLVING THAT THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT CONDUCT AN INQUIRY INTO THE MATTER GIVES RISE TO A QUESTION OF PRIVILEGES OF THE HOUSE UNDER RULE IX.

On March 2, 1994, Mr. ISTOOK rose to a question of the privileges of the House and, pursuant to the order of the House of February 23, 1994, called up the following resolution (H. Res. 238); as amended:

Whereas, allegations reported in public and made in official court documents that personnel of the House Post Office provided illegal cash to certain members in three ways: (1) cash instead of stamps for official vouchers, (2) cash for postage stamps which, had earlier been purchased with official vouchers, and (3) cash for campaign checks;

Whereas, these allegations directly affect the rights of the House collectively, its safety, dignity, and the integrity of its proceedings, and the rights, reputation, and conduct of its Members:

Whereas, Article, I, Section V of the Constitution gives each House of the Congress responsibility over disorderly behavior of its Members:

Whereas, the Committee on Standards of Official Conduct has jurisdiction over the conduct and behavior of current House Members, Officers, and employees, including investigatory authority, and is the appropriate body of this House to conduct any inquiry: Now, therefore, be it

Resolved, That the Committee on Standards of Official Conduct is instructed to investigate immediately all possible violations that are related, but not limited to, the documents received by the Committee on Standards of Official Conduct from the Committee on House Administration, and the allegations stated above.

Further resolved, The Committee on Standards of Official Conduct shall coordinate its investigation with the related efforts of the Department of Justice so as not to jeopardize any ongoing criminal investigation.

Further resolved, That in pursuing its investigations, the Committee on Standards of Official Conduct shall determine Members, Officers or employees who have violated House rules, practices and procedures in connection with the House Post Office.

Further resolved, The Committee shall inform the Department of Justice regarding the procedures and aspects the Committee intends to investigate. If the Department of Justice then responds that a specific matter the Committee intends to investigate is material to, or subject of an official investigation, the Committee may defer that inquiry pending the conclusion of the investigation by the Department of Justice.

Further resolved, That the Committee on Standards of Official Conduct shall file a public status report within 60 days of the adoption of the resolution and periodically thereafter.

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

and recognized Mr. ISTOOK and Mr. GEPHARDT, each for 30 minutes.

POINT OF PERSONAL PRIVILEGE

(¶30.7)

A MEMBER ROSE TO A QUESTION OF PERSONAL PRIVILEGE UNDER RULE IX ON THE BASIS OF NEWS ACCOUNTS THAT ASSERTEDLY IMPUGNED HIS CHARACTER AND MOTIVES BY PUBLISHING QUOTATIONS FROM A LETTER THE MEMBER RECEIVED FROM THE CHAIRMAN OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS.

On March 24, 1994, Mr. LEACH rose to a question of personal privilege.

The SPEAKER pro tempore, Mrs. KENNELLY, pursuant to clause 1 of rule IX, recognized Mr. LEACH for one hour.

Mr. LEACH made the following statement:

"Madam Speaker, I rise to a point of personal privilege of the House.

"In rising to this point of privilege, I wish to express concern about the breakdown of comity that has occurred on a personal and procedural level in the House Banking Committee.

"On a personal level, unfortunate adjectives have been used; on a procedural level, unprecedented tactics have been employed.

"I don't wish to dwell on the personal, except to stress my high regard for the chairman of the Banking Committee and to suggest that, as the theologian Reinhold Niebuhr once observed, the temper and integrity of the political debate is more important in our kind of democracy than the outcome of any issue.

"Motivational aspersions are no substitute for full disclosure; indignation no substitute for pursuit of truth.

"Members of the majority may be speaking the truth when they indicate they have no evidence of a link between the failure of an Arkansas S&L and Whitewater and that they know of no improprieties at issue. But it should be understood that not speaking an untruth is not the same as describing a truthful situation, particularly if there has been no serious effort to pursue the truth.

[The full remarks of Mr. Leach appear in the text of the Journal of March 24, 1994, at ¶30.7]

POINT OF ORDER

(¶40.7)

TO A BILL ADDRESSING UNITED STATES CLAIMS AGAINST IRAQ BEFORE A UNITED NATIONS COMMISSION BY PROVISIONS WITHIN THE JURISDICTION OF THE COMMITTEE ON FOREIGN AFFAIRS (INCLUDING A SENSE OF CONGRESS CONCERNING THE ADMISSION OF IRAQI REFUGEES TO THE UNITED STATES PENDING PAYMENT OF SUCH CLAIMS), AN AMENDMENT PROPOSED IN A MOTION TO RECOMMIT INDEPENDENTLY BARRING FROM ADMISSION TO THE UNITED STATES AS REFUGEES ALL FORMER MEMBERS OF THE IRAQI ARMED FORCES (A PROVISION WITHIN THE JURISDICTION OF THE COMMITTEE ON THE JUDICIARY) IS NOT GERMANE.

On April 28, 1994, the bill (H.R. 3221) to provide for the adjudication of cer-

tain claims against the Government of Iraq; was ordered to be engrossed and read a third time, was read a third time by title.

Mr. MANZULLO moved to recommit the bill to the Committee on Foreign Affairs with instructions to report the bill back to the House forthwith with the following amendment:

Strike section 10(a) and insert the following:

"(a) Notwithstanding any other provision of the law, individuals who have served in the armed forces of Iraq during the Persian Gulf conflict may not be admitted to the United States as refugees under the Immigration and Nationality Act."

Pending consideration of said motion to recommit with instructions,

POINT OF ORDER

(¶40.8)

Mr. HAMILTON made a point of order against the motion to recommit with instructions, and said:

"Mr. Speaker, I object to the motion to recommit and make a point of order against it.

"Mr. Speaker, I think the motion to recommit is not germane, because as I understand it, and I have not had the opportunity to see it, but I was trying to listen very carefully. As I understand it, it tries to change the basic immigration law that is the law of the land. I therefore think it should be subject to a point of order as not germane."

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

"Mr. Speaker, I join with the distinguished chairman [Mr. HAMILTON] of the Committee in raising the issue that this is a nongermane amendment."

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

"Mr. Speaker, under these very exceptional circumstances as to this rough language that was found in this bill as brought to the House by the gentleman from Pennsylvania, I think it would be in the best order and in the best interests of the American public to defeat this bill in final passage and send it back to the full Committee on Foreign Affairs to redo the language."

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

"Does any other Member desire to be heard on the point of order?"

"If not, the Chair is prepared to rule.

"The gentleman from Indiana [Mr. HAMILTON] makes a point of order that the amendment contained in the motion to recommit with instructions is not germane. The test of germaneness in this situation is to measure the amendment against the bill in its perfected form. The bill, as amended, appears to confine changes in law to those within the jurisdiction of the Committee on Foreign Affairs.

"While section 10 does express the sense of Congress relating to Iraqi refugees, the bill does not change the Immigration and Nationality Act, other laws relating to admission of refugees, or contain other matter within the ju-

QUESTIONS OF ORDER

WORDS TAKEN DOWN

risdiction of the Committee on the Judiciary.

"Since the amendment would change immigration law and the bill would not, the Chair sustains the point of order."

PRIVILEGES OF THE HOUSE—RETURN OF SENATE BILL

(¶80.6)

A RESOLUTION ASSERTING THAT A SENATE-PASSED BILL CONTAINS PROVISIONS RAISING REVENUE IN DEROGATION OF THE CONSTITUTIONAL PREROGATIVE OF THE HOUSE TO ORIGINATE SUCH BILLS GIVES RISE TO A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX. THE HOUSE RETURNED TO THE SENATE A SENATE-PASSED BILL TO REGULATE TOXIC SUBSTANCES THAT, BY PROHIBITING THE IMPORT OF PRODUCTS CONTAINING MORE THAN SPECIFIED LEVELS OF LEAD, WOULD EFFECT A CHANGE IN TARIFF REVENUES.

On July 21, 1994, Mr. GIBBONS rose to a question of the privileges of the House and submitted the following resolution (H. Res. 486):

Resolved, That the bill of the Senate (S. 729) to amend the Toxic Substances Control Act to reduce the levels of lead in the environment, and for other purposes, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

The SPEAKER pro tempore, Mr. WISE, ruled that the resolution submitted did present a question of the privileges of the House under rule IX, and recognized Mr. GIBBONS and Mr. HANCOCK, each for 30 minutes.

PRIVILEGES OF THE HOUSE—RETURN OF SENATE BILL

(¶80.7)

A RESOLUTION ASSERTING THAT A SENATE-PASSED BILL CONTAINS PROVISIONS RAISING REVENUE IN DEROGATION OF THE CONSTITUTIONAL PREROGATIVE OF THE HOUSE TO ORIGINATE SUCH BILLS GIVES RISE TO A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX. THE HOUSE RETURNED TO THE SENATE A SENATE-PASSED BILL (PREVIOUSLY REFERRED TO COMMITTEE) TO IMPROVE VETERANS' HEALTH PROGRAMS WOULD EXEMPT FROM TAXATION CERTAIN PAYMENTS IN RESPECT OF VETERANS.

On July 21, 1994, Mr. GIBBONS rose to a question of the privileges of the House and submitted the following resolution (H. Res. 487):

Resolved, That the bill of the Senate (S. 1030) entitled the "Veterans Health Programs Improvement Act of 1994", in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

The SPEAKER pro tempore, Mr. WISE, ruled that the resolution submitted did present a question of the privileges of the House under rule IX, and recognized Mr. GIBBONS and Mr. HANCOCK, each for 30 minutes.

(¶86.4)

IT IS NOT A PERSONALITY IN DEBATE TO CHARACTERIZE AS "BADGERING" A COLLEAGUE'S QUESTIONING OF A WITNESS IN A COMMITTEE HEARING.

A MEMBER'S COMPORTMENT MAY CONSTITUTE A BREACH OF DECORUM EVEN THOUGH THE CONTENT OF HER SPEECH IS NOT, IN ITSELF, UNPARLIAMENTARY.

IT IS A BREACH OF DECORUM FOR A MEMBER TO IGNORE A GAVEL TO ORDER BY THE CHAIR.

On July 29, 1994, Ms. WATERS during one minute speeches addressed the House and, during the course of her remarks,

Mr. SENSENBRENNER demanded that certain words be taken down.

The Clerk read the words taken down as follows:

He had to be gavelled out of order because he badgered a woman who was a witness from the White House, Maggie Williams. I am pleased I was able to come to her defense. Madam Chairwoman, the day is over when men can badger and intimidate women.

The SPEAKER said:

"While in the opinion of the Chair the word 'badgering' is not in itself unparliamentary, the Chair believes that the demeanor of the gentlewoman from California [Ms. WATERS] was not in good order in the subsequent period immediately following those words having been uttered.

"Accordingly, the Chair rules that without leave of the House, the gentlewoman of California may not proceed for the rest of today. The Chair would ask whether there is objection to the gentlewoman from California receiving the right to proceed in good order."

By unanimous consent, Ms. WATERS was permitted to proceed in order.

PRIVILEGES OF THE HOUSE—RETURN OF SENATE BILL

(¶96.15)

A RESOLUTION ASSERTING THAT A SENATE AMENDMENT TO A GENERAL APPROPRIATION BILL CONTAINS PROVISIONS RAISING REVENUE IN DEROGATION OF THE CONSTITUTIONAL PREROGATIVE OF THE HOUSE TO ORIGINATE SUCH BILLS GIVES RISE TO A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX. THE HOUSE RETURNED TO THE SENATE A GENERAL APPROPRIATION BILL WITH SUNDRY NUMBERED SENATE AMENDMENTS INCLUDING ONE THAT, BY PROPOSING TO USE PARTICULARIZED FDA USER FEES TO FINANCE FDA ACTIVITIES, GENERALLY, WOULD RAISE GENERAL REVENUE.

On August 12, 1994, Mr. GIBBONS rose to a question of the privileges of the House and submitted the following resolution (H. Res. 518):

Resolved, That Senate amendment No. 83 to the bill H.R. 4554 making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this house and that such bill with the Senate amendments thereto be respectfully re-

turned to the Senate with a message communicating this resolution.

The SPEAKER pro tempore, Ms. BROWN, ruled that the resolution submitted did present a question of the privileges of the House under rule IX, recognized Mr. GIBBONS and Mr. THOMAS of California, each for 30 minutes.

When said resolution was considered.

After debate,

On motion of Mr. GIBBONS, the previous question was ordered on the resolution to its adoption or rejection, and under the operation thereof, the resolution was agreed to.

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

POINT OF ORDER

(¶106.20)

A MOTION TO INSTRUCT MANAGERS ON THE PART OF THE HOUSE TO INCLUDE IN A CONFERENCE REPORT A PROVISION NOT COMMITTED TO CONFERENCE BY EITHER HOUSE EXCEEDS THE SCOPE OF CONFERENCE IN VIOLATION OF CLAUSE 3 OF RULE XXVIII.

On September 13, 1994, on motion of Mr. MURTHA, by unanimous consent, the bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes; together with the amendments of the Senate thereto, was taken from the Speaker's table, and the House disagreed to said amendments and agreed to the conference asked by the Senate.

Mr. WALKER moved that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on H.R. 4650 be instructed to agree to the following language:

No funds appropriated under this Act shall be used to deploy United States Armed Forces to Haiti or otherwise support United States Armed Forces in Haiti for purposes of removing the de facto regime or for subsequent peace keeping by United States Armed Forces without first obtaining the prior approval of the Congress.

POINT OF ORDER

(¶106.22)

Mr. MURTHA made a point of order against said motion and said:

"Mr. Speaker, I make a point of order against the motion to instruct conferees. The motion instructs conferees to include matter outside the scope of the conferees' authority and is in violation of clause 3, rule XXVIII."

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

"Mr. Speaker, I do wish to be heard on my motion and on the point of order.

"Mr. Speaker, my dear friend, the gentleman from Pennsylvania [Mr. MURTHA], raises the point that the instruction that I have proposed falls outside the scope of the legislation that we have before us.

"Mr. Speaker, the problem with the gentleman's point is the fact that we

QUESTIONS OF ORDER

are about to engage, according to media reports and according to announcements from the administration, in an action in Haiti. This is not an action that was contemplated at the time the bills were being drafted either in the House or the Senate.

"Moreover, the troops are being deployed at the present time to Haiti under funds appropriated last year, none of which were for the purpose of an invasion of Haiti. In my view, the only place that the House has to legitimately address this issue is in the defense appropriations bill where we can limit funding if we do not believe that this particular action should be taken.

"This instruction, while it does not meet the strict interpretation of scope, is certainly within the scope of the moneys that are going to be utilized in the bill that is before us. There is no doubt that if this invasion takes place, the moneys that are going to be appropriated under this bill will be used in Haiti.

"This is an instruction assuring that the Congress has acted on this issue and assuring that none of these funds will go forward and be used by our Armed Forces in Haiti until there has been a prior approval by the Congress for that action.

"So I think this is a necessary action to take and conferees would then be authorized to place this language into the bills that come back for final action in the House. I would hope that the Chair would rule in favor of this as an entirely appropriate way for the House to engage in the issue of Haiti and assure that the Members of this House have had at least a vote on whether or not to engage in a combatant action in the nation of Haiti."

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

"The Chair is prepared to rule.

"The motion offered by the gentleman includes matter not within the scope of differences on any of the Senate amendments being sent to conference. The motion is, therefore, out of order under clause 3 of rule XXVIII.

"On page 715 of the Manual it is stated that a point of order may be sustained against a motion to instruct House conferees to address a matter beyond the scope of differences being committed to conference by the 215 Senate amendments.

"The Chair sustains the point of order."

POINT OF ORDER

(¶116.15)

A MOTION TO INSTRUCT MANAGERS ON THE PART OF THE HOUSE TO INCLUDE IN A CONFERENCE REPORT PROVISIONS EXPANDING CERTAIN DEFINED CLASSES BEYOND THOSE CONTAINED IN THE HOUSE BILL OR THE SENATE AMENDMENT THERETO EXCEEDS THE SCOPE OF CONFERENCE IN VIOLATION OF CLAUSE 3 OF RULE XXVIII.

On September 29, 1994, Mr. BRYANT, pursuant to House Resolution 550, called up the conference report (Rept. No. 103-750) on the bill of the Senate (S.

349) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

When said conference report was considered.

After debate,

By unanimous consent, the previous question was ordered on the conference report to its adoption or rejection.

Whereupon,

Mr. GEKAS moved to recommit the conference report on S. 349 to the committee of conference with instructions for the managers on the part of the House to carry out the following:

(1) In the proposed section 103—

(A) strike out paragraph (8),

(B) strike out the second sentence of paragraph (9)(A), and

(C) strike out subparagraph (B) of paragraph (9),

(2) Strike out paragraph (5) of section 104(b).

(3) Strike out paragraph (6) of section 105(b).

(4) In the proposed section 103(10)(B)(xviii), strike out the material following subclause (II).

(5) In the proposed section 103, insert before the period at the end of paragraph (12) the following: "or a person who spends more than \$100,000 in a 6 month period to influence decisionmaking in the executive and legislative branch."

(6) In the proposed section 106(c), strike paragraph (2).

(7) In the proposed Rule XXXV of the Standing Rules of the Senate strike out subparagraphs (a) and (c) of paragraph 2 and in clause 4 of Rule XLIII of the Rules of the House of Representatives strike out paragraphs (b) and (d) of clause 4.

(8) In title I redesignate sections 112 through 121 as sections 113 through 122, respectively, and add after section 111 the following:

SEC. 112. LEGISLATIVE SERVICE ORGANIZATIONS.

(a) COVERAGE.—Any entity affiliated with a legislative service organization shall be considered a lobbyist subject to—

(1) the registration, reporting, and disclosure requirements of sections 104 and 105

(2) the prohibition of section 106, and

(3) the amendments to the Standing Rules of the Senate and the Rules of the House of Representatives made by title II.

(b) OTHER REQUIREMENTS.—Each entity affiliated with a legislative service organization shall report to the Office of Lobbying Registration and Public Disclosure—

(1) the names and salaries of its staff,

(2) arrangements made with others to share staff and costs,

(3) relationships with other organizations in connection with lobbying activities, and

(4) any contributions, gifts, or reimbursements received.

(c) REPORTS.—Any person, organization, or foreign government which makes any contribution to any entity affiliated with a legislative service organization during the semiannual period beginning on the first day of January or the first day of July of each year shall report such contribution to the Office of Lobbying Registration and Public Disclosure not later than 30 days after the end of that semiannual period.

(d) SPECIAL FORM.—For purposes of reporting, the Office of Lobbying Registration and Public Disclosure shall issue a form that clearly identifies reportable activity by or to an entity affiliated with a legislative service organization.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "contribution" means a gift, subscription, loan, advance, or deposit of money or anything of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution.

(2) The term "legislative service organization" refers to a particular category of working groups or caucuses organized to provide legislative services and assistance to Members of the House of Representatives and certified by the Committee on House Administration.

(3) The term "entity affiliated" means an organization which is described in at least 2 of the following:

(A) An organization which spends at least 10 percent of its funds in any year on—

(i) travel expenses for Members of Congress or congressional staff,

(ii) meals, receptions, or other food and beverage expenses on activities attended by Members of Congress or congressional staff, and

(iii) gifts (other than educational materials) to Members of Congress or congressional staff.

(B) An organization which has a name which is like or similar to the name of an entity of the House of Representatives, including a legislative service organization or congressional member organization, or uses the word "congressional" in its official name or title.

(C) An organization which has a Member of Congress serving on its board of directors or holding another controlling position.

In the proposed section 103(3), strike "and" at the end of subparagraph (F), strike the period at the end of subparagraph (G) and insert "; and", and insert after subparagraph (G) the following:

(H) any other officer or employee not otherwise described in this paragraph serving in a position in the executive branch that is classified at or above GS-14 of the General Schedule."

At the end of the bill, add:

Any penalty applicable to lobbyists or lobbying firms in this bill shall also apply to Members of Congress.

Pending consideration of said motion,

POINT OF ORDER

(¶116.16)

Mr. BRYANT made a point of order against the motion, and said:

"Madam Speaker, I make a point of order that the motion to recommit offered by the gentleman from Pennsylvania [Mr. GEKAS] is not in order, in that it instructs the conferees to carry out instructions which exceed the scope of the matters committed to conference. Specifically, the motion to recommit contains language which expands the definition of lobbyists and expands the definition of covered executive branch officials.

"Both of these expanded definitions exceed the scope of the matters committed to conference. Therefore, Madam Speaker, I insist on the point of order."

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

"Madam Speaker, I believe that the motion to recommit is in order. The important feature of the motion to recommit has to do with campaign contributions in which we feel that, as we argued in the well of the House, the big gift that we should be banning is cam-

QUESTIONS OF ORDER

paign contributions by lobbyists, not just sandwiches.”.

The SPEAKER pro tempore, Ms. PELOSI, sustained the point of order, and said:

“The Chair is prepared to rule. The gentleman from Texas [Mr. BRYANT] makes a point of order against the motion to recommit offered by the gentleman from Pennsylvania [Mr. GEKAS].

“As discussed in section 26.12, chapter 33 of Procedure in the U. S. House of Representatives, a motion to recommit a conference report may not instruct House conferees to include matter beyond the scope of differences committed to conference by either House.

“The motion offered by the gentleman from Pennsylvania includes several instructions that violate this principle. For example, the motion instructs conferees to expand the definition of ‘lobbyist’ as defined in both the Senate bill and House amendment to include not only persons who spend a certain period of time engaging in lobbying activities while serving a client but also those who spend more than a certain dollar amount within a fixed period to influence decision making.

“Another example is found in the instruction that expands the definition of ‘covered executive branch official’ as defined in both the Senate bill and House amendment to include a position in the executive branch that is classified at or above GS-14 of the General Schedule.

“The inclusion of even one of the above-described instructions provides the Chair with an adequate basis to find the entire motion out of order on the grounds the instructions exceed the scope of differences committed to conference. Accordingly, the point of order is sustained.”.

POINT OF ORDER

(¶119.8)

UNDER CLAUSE 1 OF RULE XX, A MOTION TO SEND A BILL TO CONFERENCE IS ALWAYS IN ORDER IF THE SPEAKER, IN HIS DISCRETION, RECOGNIZES FOR THAT PURPOSE AND THE MOTION IS OFFERED AT THE DIRECTION OF ALL REPORTING COMMITTEES OF ORIGINAL JURISDICTION.

UNDER CLAUSE 1 OF RULE XX, A MOTION TO SEND A BILL TO CONFERENCE IS PRIVILEGED IF OFFERED AT THE DIRECTION OF THE ONLY COMMITTEE THAT REPORTED THEREON TO THE HOUSE, AND NEED NOT BE AUTHORIZED BY A COMMITTEE DISCHARGED FROM A SEQUENTIAL REFERRAL.

On October 4, 1994, Mr. MILLER of California, pursuant to clause 1 of rule XX, and by direction of the Committee on Natural Resources moved to take from the Speaker’s table the bill of the Senate (S. 21) to designate certain lands in the California Desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes; together with the amendments of the House thereto, insist upon its amendments and agree to the conference asked by

the Senate on the disagreeing votes of the two Houses thereon.

Pending consideration of said motion,

POINT OF ORDER

(¶119.9)

Mr. POMBO made a point of order against the motion, and said:

“Mr. Speaker, I make a point of order that the Committee on Merchant Marine and Fisheries to which the bill, S. 21, was referred, has not authorized the pending motion in violation of clause 1 of rule XX.”.

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

“Mr. Speaker, to make the point of order that the primary committee of jurisdiction was authorized to ask to go to conference.”.

Mr. POMBO was recognized to speak further on the point of order against the motion, and said:

“Mr. Speaker, I serve on both the Committee on Natural Resources and the Committee on Merchant Marine and Fisheries, to which S. 21 was also referred. Unfortunately, the referral to Merchant Marine and Fisheries was very short and that committee did not file a report on the bill. The net result is that my Merchant Marine and Fisheries colleagues did not have an opportunity to debate that the Committee on Merchant Marine and Fisheries will not have a role in making the recommendation to the House with regard to insisting or receding from the Senate amendments to S. 21.

“Mr. Speaker, it is my understanding that, under rule XX and the precedents of the House, a privileged motion to go to conference must be authorized by both committees to which a bill has been jointly referred. I have been told that this precedent was decided prior to the time when sequential referrals were used in the House. I believe that the interests of the House would be best served if this interpretation were extended to sequential as well as joint referrals to ensure that all committees of jurisdiction on a bill will be treated as equal partners in the process.

“I do not believe the Speaker has yet ruled on this precise issue and insist on my point of order to clarify the matter.”.

Mr. MILLER of California was recognized to speak further to the point of order, and said:

“The Committee on Natural Resources is the primary committee of jurisdiction here. There was a referral to the Committee on Merchant Marine and Fisheries. They could have exercised whatever actions they decided to. They did not decide to do that. By reason of the fact that we remain the primary committee, we have been instructed by our committee to go to conference on this matter.”.

The SPEAKER pro tempore, Mr. HUGHES, overruled the point of order, and said:

“The Chair is prepared to rule.

“The gentleman from California [Mr. POMBO] makes the point of order that,

to be privileged under clause 1 of rule XX, the motion must be authorized not only by the Committee on Natural Resources but also by the Committee on Merchant Marine and Fisheries.

“Under clause 1 of rule XX, a motion to send a bill to conference is always in order if the Speaker, in his discretion, recognizes for that purpose and if the motion is made at the direction of all reporting committees having original jurisdiction over the bill. The Chair is guided by the precedent of September 26, 1978, standing for the proposition that the motion must be authorized by each committee of joint referral that has reported the measure to the House.

“In the instant case, the Committee on Merchant Marine and Fisheries was a committee of sequential referral of the House bill and did not report thereon to the House. The instant motion is, therefore, offered at the direction of the only committee of original referral of the House bill, and the only committee that reported thereon to the House—the Committee on Natural Resources. Accordingly, the motion is privileged under clause 1 of rule XX.

“The point of order is overruled.”.

PRIVILEGES OF THE HOUSE—RETURN OF

SENATE BILL

(¶122.8)

A RESOLUTION ASSERTING THAT A SENATE-PASSED BILL CONTAINS PROVISIONS RAISING REVENUE IN DEROGATION OF THE CONSTITUTIONAL PREROGATIVE OF THE HOUSE TO ORIGINATE SUCH BILLS GIVES RISE TO A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX. THE HOUSE RETURNED TO THE SENATE A SENATE-PASSED BILL TO SETTLE A CERTAIN INDIAN BOUNDARY THAT WOULD EXEMPT FROM TAXATION CERTAIN PAYMENTS UNDER THE SETTLEMENT.

On October 7, 1994, Mr. GIBBONS rose to a question of the privileges of the House and submitted the following resolution (H. Res. 577):

Resolved, That the bill of the Senate (S. 1216) entitled the “Crow Boundary Settlement Act of 1994”, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

The SPEAKER pro tempore, Mr. MAZZOLI, ruled that the resolution submitted did present a question of the privileges of the House under rule IX, and recognized Mr. GIBBONS and Mr. HERGER, each for thirty minutes.

After debate,

By unanimous consent, 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. MAZZOLI, announced that the yeas had it.

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.

SUBPOENAS RECEIVED

SUBPOENAS RECEIVED PURSUANT TO RULE L

On February 1, 1994, the SPEAKER pro tempore, Mr. VOLKMER, laid before the House a communication, which was read as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 1, 1994.
Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to rule L (50) of the Rules of the House, that my Committee has been served with a subpoena issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel to the Clerk, I have determined that compliance with the subpoena is consistent with the privileges of the House.

Sincerely yours,

DAN ROSTENKOWSKI,
Chairman.

On February 1, 1994, the SPEAKER pro tempore, Mr. VOLKMER, laid before the House a communication, which was read as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 26, 1994.
Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to rule L of the rules of the House that a member of my Committee staff has been served with a subpoena issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel to the Clerk, I have determined that compliance with the subpoena is not inconsistent with the privileges and precedents of the House.

Sincerely,

DAN ROSTENKOWSKI.

On February 1, 1994, the SPEAKER pro tempore, Mr. VOLKMER, laid before the House a communication, which was read as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 26, 1994.
Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Rule L (50) of the Rules of the House, this is to formally notify you that my office has been served with a subpoena for employment and salary records of a staff person. The subpoena was issued by the Supreme Court of the State of New York, in connection with a civil case on a personal injury claim.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

CHARLES B. RANGEL,
Member of Congress.

On February 2, 1994, the SPEAKER pro tempore, Mr. DURBIN, laid before the House a communication, which was read as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 1, 1994.
Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that the Office Supply Service has been served with a subpoena issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel to the House, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

RANDALL B. MEDLOCK,
Acting Director.

On February 8, 1994, the SPEAKER pro tempore, Ms. JOHNSON of Texas, laid before the House a communication, which was read as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, January 28, 1994.
Hon. THOMAS S. FOLEY,
Speaker of the House, Washington, DC.

DEAR THOMAS: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena to give a witness deposition. The subpoena was issued by the District Court of North Dakota, South Central Judicial District in connection with a civil case.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

EARL POMEROY,
Member of Congress.

On February 10, 1994, the SPEAKER pro tempore, Mr. CHAPMAN, laid before the House a communication, which was read as follows:

OFFICE OF THE DIRECTOR, NON-LEGISLATIVE AND FINANCIAL SERVICES, HOUSE OF REPRESENTATIVES
Washington, DC, February 10, 1994.
Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally pursuant to Rule L (50) of the Rules of the House that the Office Supply Service and the Office of Finance have each been served with a subpoena issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel to the House, I have determined that compliance with the subpoenas is consistent with the privileges and precedents of the House.

Sincerely,

RANDALL B. MEDLOCK,
Acting Director.

On February 23, 1994, the SPEAKER pro tempore, Mrs. CLAYTON, laid before the House a communication, which was read as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 15, 1994.
Hon. THOMAS S. FOLEY,
Speaker of the House, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the Civil Court of the City of New York.

After consultation with the General Counsel to the House, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

JERROLD NADLER,
Member of Congress.

On February 23, 1994, the SPEAKER pro tempore, Mrs. CLAYTON, laid before the House a communication, which was read as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC, February 16, 1994.
Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L of the Rules of the House that the Committee on House Administration has been served with a subpoena issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel to the House, I have determined that compliance with the subpoena is not inconsistent with the privileges and precedents of the House.

Sincerely,

CHARLIE ROSE,
Chairman.

On February 23, 1994, the SPEAKER pro tempore, Mrs. CLAYTON, laid before the House a communication, which was read as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 10, 1994.
Hon. THOMAS S. FOLEY,
Speaker of the House, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the United States District Court for the Western District of Wisconsin.

After consultation with the General Counsel to the House, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
Member of Congress.

On March 2, 1994, the SPEAKER pro tempore, Mr. ROEMER, laid before the House a communication, which was read as follows: