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appropriation or other law, but not a bill, to waive its provisions. The proceedings are discussed in § 37.13, infra.

§ 27. Provisions Affecting or Affected by Funds in Other Acts

In General; Language Not Limited to Funds in Bill

§ 27.1 It is not in order, in the guise of a limitation on a general appropriation bill, to deny the use of funds not contained in the bill to pay salaries of persons connected with agencies not covered by the bill.

On June 28, 1971,[3] during consideration in the Committee of the Whole of a general appropriation bill (H.R. 9271), a point of order was raised against the following amendment:

MR. WILLIAM D. FORD [of Michigan]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. William D. Ford: On page 36, insert "(a)" immediately after "Sec. 508." in line 10; and immediately below line 14 on page 36 insert the following:

"(b) No part of any appropriation contained in this or any other Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, or any officer or employee of the Government of the United States outside the United States Postal Service, who—

"(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such Member or committee; or

"(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance or efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any Member or committee of Congress as described in paragraph (1) of this subsection."

MR. [FRANK T.] BOW [of Ohio]: Mr. Chairman, I make a point of order against the amendment, and I should like to be heard on the point of order.

THE CHAIRMAN:[4] At this point?

MR. BOW: Yes, Mr. Chairman.

3. 117 CONG. REC. 22442, 22443, 92d Cong. 1st Sess.

4. John S. Monagan (Conn.).

Mr. Chairman, this, it seems to me, is subject to a point of order in several instances. First of all, there is paragraph (b) of the amendment. There is a provision that no part of any appropriation contained in this or any other act shall be available for the payment of the salary of any officer or employee of the U.S. Postal Service. It is not limited to this act but to any other act, which I think makes it subject to a point of order.

Furthermore, under the next provision, which prohibits or prevents, or attempts or threatens to prohibit or prevent, that puts such additional duties on the director of the Postal Service that it becomes almost impossible for him to administer this, particularly as to further threats in the future.

I believe it is very apparent from reading this that additional duties are placed on the executive branch of the Government, on the Postal Service, and in addition to any objections to part (b) or the rest of the amendment, I believe it is sufficient to sustain the point of order.

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

MR. WILLIAM D. FORD: Yes, I do, Mr. Chairman.

First of all, it is not necessary to legislate with this amendment, because the law that this amendment attempts to enforce has been on the books and it has been the law of this country since 1912. We now have substantive law which now very substantially says that you shall not do any of the things set forth in this act. What this amendment proposes to do is withhold the expenditure of the supplemental funds being appropriated by this bill to the operation of the Postal Service from anyone who violates the law that has been the law since 1912. The only determination that is necessary to be made by anybody is not to violate the law. . . .

THE CHAIRMAN: The . . . Chair is ready to rule.

The Chair finds that this amendment does not impose additional duties to the extent that is objectionable under the precedents relating to limitations on appropriation bills. However, the Chair also finds that the amendment does seek to cover matters beyond those which are in the purview of this bill since it provides that no part of any appropriation contained in this or any other act shall be available for certain purposes with respect to officers or employees of the Government whether inside or outside the U.S. Postal Service or agencies covered by this bill.

Therefore, this constitutes legislation on the pending appropriation bill and the Chair sustains the point of order.

Restriction on Corporate Funds Other Than Those Appropriated

§ 27.2 An amendment to an appropriation bill in the form of a limitation which is applicable also to moneys appropriated in other acts is legislation and not in order: an amendment to an appropriation bill providing that no part of any appropriation contained in this act, or of the funds available for ex-

penditure by any corporation included in this act, shall be used for a stated purpose was held to be legislation and not in order.

On May 10, 1950,[5] during consideration in the Committee of the Whole of the general appropriation bill (H.R. 7786), a point of order was raised against the following amendment:

MR. [JACOB K.] JAVITS [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Javits: On page 417, after line 14, insert a new section 1110, and appropriately renumber succeeding sections. The new section to read as follows:

"Sec. 1110. No part of any appropriation contained in this act, or of the funds available for expenditure by any corporation included in this act, shall be used to pay the salary or wages of any person who advocates, or practices the denial to any citizen of the United States of the right to apply for, hold or be promoted in any Government position or office on the grounds of race, color, religion, or national origin."

MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Chairman, I make the point of order against the amendment that it goes beyond the scope of the bill.

MR. JAVITS: Mr. Chairman, may I be heard on the point of order?

THE CHAIRMAN:[6] The Chair will hear the gentleman.

MR. JAVITS: Mr. Chairman, I point out that the provision which I have suggested as an amendment will result in retrenchment because it may result in withholding wages or salaries from employees of the United States. That is all that this refers to. It would affect the appropriations made under this act and therefore comes within the rules of propriety as an amendment to an appropriation bill.

THE CHAIRMAN: The Chair is prepared to rule. The gentleman from New York [Mr. Javits] has offered an amendment which has been reported. The gentleman from Michigan [Mr. Rabaut] makes a point of order against the amendment on the ground that it goes beyond the scope of the pending bill.

The Chair has examined the amendment offered by the gentleman from New York, and is of the opinion that it does go beyond the scope of the pending bill. The Chair invites attention to the fact that it seeks to affect funds of corporations not necessarily appropriated for in this bill.

The Chair therefore sustains the point of order.

§ 27.3 To an appropriation bill, an amendment in the form of a limitation providing that no funds available for expenditure by any corporation or agency included in this act shall be used for publicity or propaganda purposes was held to go to funds not in the bill and therefore was legislation not in order.

5. 96 CONG. REC. 6834, 81st Cong. 2d Sess.

6. Jere Cooper (Tenn.).

On July 22, 1958,[7] the Committee of the Whole was considering H.R. 13450, a supplemental appropriation bill. The Clerk read as follows:

Amendment offered by Mr. [H. R.] Gross [of Iowa]: On page 29, after line 17, add the following new chapter and paragraph:

"CHAPTER XIV

"No part of any appropriation contained in this act, or any funds available for expenditure by any corporation or agency included in this act, shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before the Congress."

MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Chairman, a point of order.

The gentleman's amendment refers to expenditure of funds not in this bill. Therefore, it is legislation on an appropriation bill.

MR. GROSS: It is the same amendment I have offered to previous appropriation bills. It is a limitation upon spending. It has been accepted in other appropriation bills by the Chairman of the Committee. It is simply a limitation, that they cannot spend money for propaganda purposes for the promotion of legislation.

THE CHAIRMAN:[8] It is a limitation on the funds available for expenditure by any corporation or agency included in this act. For that reason the Chair sustains the point of order made by the gentleman from Michigan.

Restriction on Future Funds

§ 27.4 An amendment to a general appropriation bill permanently limiting amounts of farm program payments to producers, even though the money for such payments was not carried in the pending bill, and requiring certain determinations to be made by the Secretary of Agriculture, was held to be legislation and was ruled out on a point of order.

On May 26, 1969,[9] during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 11612), a point of order was raised against the following amendment:

MR. [ANCHER] NELSEN [of Minnesota]: Mr. Chairman, I offer a substitute amendment to the amendment offered by the gentleman from Massachusetts [Mr. Conte]:

The Clerk read as follows:

Substitute amendment offered by Mr. Nelsen to the amendment offered by Mr. Conte: On page 22, line 17, strike the period and add a colon and the following: *Provided further,* That notwithstanding any other provision of law, in the case of any pro-

7. 104 CONG. REC. 14664, 85th Cong. 2d Sess.

8. James J. Delaney (N.Y.).

9. 115 CONG. REC. 13759, 13760, 91st Cong. 1st Sess.

ducer entitled to payments for any calendar year after 1969, under price support or commodity program, the Incentive payments, Diversion payments, Price support payments, and Wheat marketing certificate payments to any single recipient, exceeding in the aggregate the amount of $10,000, the amount of such payments with respect to that year to which the producer would otherwise be entitled shall be reduced in accordance with this subsection. If the aggregate amount of the payment is—

"(1) over $10,000 but not over $15,000, the reduction is 10 percent of the excess over $10,000

"(2) over $15,000 but not over $25,000, the reduction is $500 plus 15 percent of the excess over $15,000

"(3) over $25,000 but not over $50,000, the reduction is $2,000, plus 20 percent of the excess over $25,000

"(4) over $50,000 but not over $100,000, the reduction is $7,000 plus 25 percent of the excess over $50,000

"(5) over $100,000 but not over $500,000, the reduction is $19,500, plus 35 percent of the excess over $100,000

"(6) over $500,000 but not over $1,000,000, the reduction is $159,500, plus 45 percent of the excess over $500,000

"(7) over $1,000,000, the reduction is $384,500 plus 55 percent of the excess over $1,000,000.

"For the purposes of this section, payments include the dollar value (as determined by the Secretary of Agriculture) of any payments-in-kind made to a producer, but do not include the amount of any price support loan made to a producer."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN:[10] The gentleman will state his point of order.

MR. WHITTEN: Mr. Chairman, this amendment, on its face, will usurp completely the jurisdiction of the Committee on Agriculture. It is not only legislation, but is rather complete, complex, and lengthy. It is certainly not only legislation on an appropriation bill, but it is a substitute on an appropriation bill in the nature of legislation.

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

MR. NELSEN: Mr. Chairman, I would submit to this body that if a limitation as provided in the previous amendment is in order, certainly this amendment would also be in order and I ask for a ruling by the Chair.

THE CHAIRMAN: The Chair is prepared to rule. This substitute offered by the gentleman from Minnesota (Mr. Nelsen) is clearly distinguishable from the amendment offered by the gentleman from Massachusetts (Mr. Conte).

The gentleman from Massachusetts (Mr. Conte) offered an amendment which provided that no part of the funds appropriated by this act should be used for certain specific purposes.

The substitute offered by the gentleman from Minnesota (Mr. Nelsen) goes much further than this. It does not constitute a limitation upon this act but indeed applies to other acts and amounts. Clearly in the opinion of the Chair it proposes legislation such as is prohibited in an appropriation bill. Therefore, the Chair sustains the point of order against the substitute.

10. James C. Wright, Jr. (Tex.).

Limitation Must Be Applicable Solely to Funds in Bill

§ 27.5 To a paragraph making appropriations for parity payments, an amendment providing that total payments to any person under soil conservation and parity payments shall not exceed $2,500 was held to be not confined to funds in the bill and therefore legislation.

On Mar. 28, 1939,[11] the Committee of the Whole was considering H.R. 5269, an Agriculture Department appropriation. The Clerk read as follows:

> Amendment offered by Mr. [Edward H.] Rees of Kansas to the amendment offered by Mr. [Clarence] Cannon of Missouri: At the end of Mr. Cannon's amendment add the following: "*Provided*, That total payments to any person, firm, or corporation under soil conservation and parity payments shall not exceed $2,500."
>
> MR. CANNON of Missouri: Mr. Chairman, I make the point of order against the amendment that it is legislation on an appropriation bill.
>
> THE CHAIRMAN:[12] Does the gentleman from Kansas desire to be heard on the point of order?
>
> MR. REES of Kansas: No, I do not believe I do, Mr. Chairman, although I do not believe it is legislation.
>
> MR. [JOHN] TABER [of New York]: Mr. Chairman, this is a pure limitation, as I understand it, limiting the amount that can be paid out under the bill to any one person and therefore is clearly in order.
>
> THE CHAIRMAN: The Chair is of the opinion that the amendment is entirely too broad in that it would not only include this appropriation but other appropriations as well and the point of order is therefore sustained.

§ 27.6 To an appropriation bill an amendment providing that no payments shall be made for soil conservation practices on land respecting which such payments have been made within the past 10 years was held to restrict the use of funds not contained in the pending bill and therefore to be legislation.

On Apr. 14, 1954,[13] during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 8779), a point of order was raised against the following amendment:

> MR. [Karl C.] KING of Pennsylvania: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. King of Pennsylvania: On page 24, in line 24, change the period to a colon and add the following: "*Provided further*, That no payments or grants shall be made for approved practices on land

11. 84 CONG. REC. 3446, 76th Cong. 1st Sess.

12. Wright Patman (Tex.).

13. 100 CONG. REC. 5175, 5176, 83d Cong. 2d Sess.

which during any 1 of the previous 10 years has been the location of a practice for which payments or grants were made under this program."

MR. H. CARL ANDERSEN [of Minnesota]: Mr. Chairman, I make a point of order.

THE CHAIRMAN:[14] The gentleman will state it.

MR. H. CARL ANDERSEN: In my opinion, this is clearly legislation upon an appropriation bill. . . .

THE CHAIRMAN: The Chair is ready to rule

The gentleman from Pennsylvania [Mr. King] has offered an amendment to which a point of order has been made by the gentleman from Minnesota [Mr. H. Carl Andersen].

The Chair has examined the amendment. In view of the fact that the language of the amendment would seem to impose further duties and apparently provide a restriction on the use of funds not contained in the pending bill, the Chair sustains the point of order.

§ 27.7 Limitations on appropriations must apply solely to the money of the appropriation under consideration, and may not be made applicable to money appropriated in other acts: to the Agriculture Department appropriation bill for 1944 an amendment in the form of a limitation limiting the payments for programs under the Agriculture Act of 1938, but not limiting the money in the pending bill was held as legislation on an appropriation bill and not in order.

On Apr. 17, 1943,[15] during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 2481), a point of order was raised and sustained against the following amendment:

MR. [EDWARD H.] REES of Kansas: Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Page 65, line 2, after the word "inclusive", insert "*Provided,* That no total payments for programs under the Agricultural Act of 1938, and for soil conservation and water conservation practices, for any year to any person, firm, or corporation under this section shall exceed $500: *Provided further,* That this limitation shall not be construed to deprive any share renter of payments not exceeding $500 to which he would otherwise be entitled." . . .

MR. [MALCOLM C.] TARVER [of Georgia]: Very well. Mr. Chairman, I make the point of order that the amendment is in the nature of legislation insofar that it involves the question of payments of $500 or less, as I understood it, when it was read—I have not had time to examine it. It does not show retrenchment upon its face. While portions of it might be construed as limitations under the Holman rule, the amendment as a whole does include

14. Harris Ellsworth (Oreg.).

15. 89 CONG. REC. 3525, 3526, 78th Cong. 1st Sess.

legislative provisions and for that reason is not in order. . . .

MR. [FRANCIS H.] CASE [of South Dakota]: Mr. Chairman, the amendment would apply to funds other than those covered by this act. Consequently it would be legislation on an appropriation bill.

THE CHAIRMAN:[16] Does the gentleman from Kansas desire to be heard further on the point of order?

MR. REES of Kansas: The language of this amendment follows the language of the bill.

THE CHAIRMAN: The Chair is prepared to rule. The Chair would call attention to the fact that under the amendment cited by the gentleman during the consideration of an appropriation bill in 1942, the language of that amendment was confined to the appropriation then under consideration. The first two lines of that amendment read as follows:

> *Provided,* That no total payments for any year to any person, firm, or corporation under this section shall exceed $500.

That is under the act then pending. The Chair would remind the gentleman that under the amendment he now proposes, and I read from that amendment:

> *Provided,* That no total payments for programs under the Agricultural Act of 1938, and for soil conservation and water conservation practices, for any year to any person, firm or corporation under this section shall exceed $500; and provided that this limitation shall not be construed to deprive any share renter of payments not exceeding $500 to which he would otherwise be entitled.

It is clearly in violation of the rule, because it is not limited to the appropriation under consideration. The Chair is constrained to sustain the point of order, and the Chair sustains the point of order.

§ 27.8 A limitation in an appropriation bill must apply solely to the money of the appropriation under consideration and may not be applicable to money appropriated in other acts: language in the Agriculture Department appropriation bill in the form of a limitation seeking to appropriate not to exceed $175,000 of the permanent appropriation under the Agriculture Adjustment Act of 1933 to enable the Secretary to protect the interests of consumers and maintain a stable supply of agriculture commodities at fair prices, was held to be a limitation on the Act of 1933 rather than a limitation on money in the pending bill and therefore legislation on an appropriation bill and not in order.

On Apr. 19, 1943,[17] during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 2481), a point of order was sus-

16. William M. Whittington (Miss.).

17. 89 CONG. REC. 3583, 3584, 78th Cong. 1st Sess.

tained against the following provision:

The Clerk read as follows:

CONSUMERS' COUNSEL DIVISION

ADMINISTRATIVE EXPENSES

Not to exceed $175,000 of the unobligated balance of the appropriation made by section 12(a), title I, of the Agricultural Adjustment Act, approved May 12, 1933, as amended (7 U.S.C. 612), shall be available during the fiscal year 1944 to enable the Secretary to further perform the duty imposed upon him under applicable laws to protect the interests of consumers with due regard to the maintenance of a continuous and stable supply of agricultural commodities adequate to meet consumer demand at prices fair to both producers and consumers, which sum shall be available for administrative expenses (including not to exceed $37,200 for printing and binding) in accordance with the provisions of subsection (a) of the aforesaid section 392.

MR. [STEPHEN] PACE [of Georgia]: Mr. Chairman, a point of order.

THE CHAIRMAN:[18] The gentleman will state it.

MR. PACE: Mr. Chairman, I make the point of order against the section just read on the ground that it is legislation on an appropriation bill and seeks to appropriate funds not authorized by law. . . .

MR. [JOHN] TABER [of New York]: Will the gentleman yield?

MR. PACE: I yield to the gentleman from New York.

MR. TABER: Is it not a fact that that money was not available for a Consumers' Counsel Division and this language that is in here is not a reappropriation which would have to be made in order to make the money available?

MR. PACE: Not only that, but if this $100,000,000 appropriated in 1933 is still available it does not have to be reappropriated. It is just like the gentleman from Georgia [Mr. Tarver] said, at the time the matter was presented to the committee, and let me read again his words:

> This language is legislative in character because if you are already authorized to do that you do not need it

That is, part of the $100,000,000 is still there.

> If you are not authorized to do it, we cannot give you such authorization in an appropriation bill.

Mr. Chairman, I submit that it is no more than an effort on the part of the Department of Agriculture to secure an additional $175,000 in excess of the 4 percent, which is a direct violation of the law and is not authorized by law and is legislative in character. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Georgia [Mr. Pace] makes a point of order against the pending paragraph that it is legislation not authorized by law. The paragraph undertakes to reappropriate $175,000 of the permanent appropriation under an act of 1933 and to limit the appropriation by the language of the pending paragraph to the purpose set forth in the pending paragraph, and thus undertakes to limit the reappropriation of $175,000 unallocated to the previous appropriation by a limitation that would apply to that act rath-

18. William M. Whittington (Miss.).

er than a limitation that would apply to an amount appropriated under the terms of this bill.

The Chair sustains the point of order.

Social Security Supplemental; Restriction on "Funds Under This Head"

§ 27.9 Language in a supplemental appropriation bill providing that not to exceed a sum certain "available under this head for the fiscal year . . . shall be expended for State and local administration," was held to apply to funds not carried in the bill and therefore not in order.

On Feb. 5, 1957,[19] during consideration in the Committee of the Whole of a deficiency appropriation bill (H.R 4249), a point of order was raised and sustained against the following provision:

The Clerk read as follows:

SOCIAL SECURITY ADMINISTRATION

Grants to States for public assistance

For an additional amount for "Grants to States for public assistance," $275,000,000: *Provided*, That not to exceed $99,000,000 of the funds available under this head for the fiscal year ending June 30, 1957, shall be expended for State and local administration.

MRS. [EDITH S.] GREEN of Oregon: Mr. Chairman, I make a point of order against that part of the chapter following the colon in line 7 and reading: "*Provided*, That not to exceed $99,000,000 of the funds available under this head for the fiscal year ending June 30, 1957, shall be expended for State and local administration," on the ground that it is legislation on an appropriation bill.

MR. [HENDERSON L.] LANHAM [of Georgia]: Mr. Chairman, the point of order is conceded.

THE CHAIRMAN:[20] The Chair has examined the language and feels that it is legislation on an appropriation bill.

The point of order is sustained

Military Pay; Limitation Not on Funds But Total Compensation

§ 27.10 Language in an appropriation bill limiting, not funds in the bill, but the percentages of military and civilian employees in the Department of Defense, and not limiting the appropriation to those carried in the bill, was held to be legislation and not in order.

On Apr. 9, 1952,[1] The Committee of the Whole was considering H.R. 7391, a Department of Defense appropriation bill. The Clerk read as follows:

Sec. 634. No pay, compensation, or allowances shall be paid for commis-

19. 103 CONG. REC. 1549, 85th Cong. 1st Sess.

20. Wilbur D. Mills (Ark.).

1. 98 CONG. REC. 3890, 82d Cong. 2d Sess.

sioned officer personnel in excess of the following percentages of total personnel of the Department concerned: [A table showing the percentages was included at this point.]

MR. [CARL] VINSON [of Georgia]: Mr. Chairman, I make the point of order that section 634 is legislation on an appropriation bill and, therefore, subject to a point of order. . . .

MR. [GLENN R.] DAVIS of Wisconsin: . . . Mr. Chairman, I concede the point of order against the section as now written.

THE CHAIRMAN:[2] The gentleman from Wisconsin concedes the point of order. The point of order is sustained.

Tennessee Valley Authority

§ 27.11 To an appropriation bill, an amendment providing that not to exceed a specific amount of the funds available to the Tennessee Valley Authority shall be used for personal services, but not limiting it to funds in the bill, was held to be legislation and not in order.

On Mar. 21, 1952,[3] The Committee of the Whole was considering H.R. 7072, an independent offices appropriation bill. The Clerk read as follows:

Amendment offered by Mr. [Kenneth B.] Keating [of New York]: On page 35, line 24, strike out the period, insert a comma, and add the following: "and not to exceed $99,131,125 of the funds available to the Tennessee Valley Authority shall be used for personal services."

MR. [ALBERT] THOMAS [of Texas]: Mr. Chairman, I make a point of order against the amendment but will reserve it to permit the gentleman from New York to make his statement. . . .

THE CHAIRMAN:[4] The Chair is ready to rule.

The Chair has before him the amendment offered by the gentleman from New York on page 35, line 24, to which the gentleman from Texas [Mr. Thomas] makes a point of order. The amendment says not to exceed so many dollars of funds available to the Tennessee Valley Authority shall be used for personal services. As the Chair reads the amendment it is not limited to funds contained in the bill now before the Committee. The fact that the amendment may be patterned after language in the bill would still not make the amendment in order if it goes to funds beyond those contained in the bill before the Committee, thus adding legislation

The Chair is not called upon to rule on the question of legislative provisions allowed to remain in the bill, in view of the rule adopted waiving points of order. The Chair is of the opinion that this amendment applies a new restriction on funds not contained in the bill thus adding legislation and therefore sustains the point of order.]

§ 27.12 A limitation to be in order on an appropriation

2. Aime J. Forand (R.I.).
3. 98 CONG. REC. 2673, 2674, 82d Cong. 2d Sess.
4. Wilbur D. Mills (Ark.).

bill must apply solely to the funds made available by the pending bill; thus, an amendment providing that "none of the funds herein or elsewhere made available" shall be used for a certain purpose was held to be legislation and not a limitation.

On June 21, 1935,[5] the Committee of the Whole was considering H.R. 8554, a deficiency appropriation bill. At one point the Clerk read as follows:

> Amendment offered by Mr. [John] Taber [of New York]: On page 48, line 16, strike out "$34,675,192" and insert in lieu thereof "$23,675,192"; page 48, line 16, strike out the period, insert a colon and the following: "*Provided,* That none of the funds herein or elsewhere made available to the Tennessee Valley Authority or the Tennessee Valley fund shall be used for the construction of any new dam or power lines until further action by Congress."
>
> MR. [JAMES P.] BUCHANAN [of Texas]: Mr. Chairman, I make the point of order against the amendment that it is additional legislation on an appropriation bill and changes existing law, for it broadens the language of the pending bill by use of the words "or elsewhere."
>
> THE CHAIRMAN:[6] Does the gentleman from New York desire to be heard on the point of order?
>
> MR. TABER: I desire to be heard briefly, if the Chair please. The first portion of the amendment to the effect that none of the funds shall be available for the construction of any new dam or power lines until further action by Congress, is purely a limitation and strictly within the Holman rule.
>
> MR. BUCHANAN: Mr. Chairman, the word "elsewhere" used in the amendment constitutes additional legislation.
>
> THE CHAIRMAN: The Chair is ready to rule.
>
> In the opinion of the Chair, while the amendment is in the form of a limitation, yet the words "or elsewhere" contained in the amendment apply to other appropriations, and is therefore legislation; and for this reason the point of order is sustained.

Trade With Cuba; Restriction on Authorization, Not Appropriation

§ 27.13 Language in a general appropriation bill prohibiting aid under the Foreign Assistance Act of 1961 to any country which furnishes or permits ships under its registry to carry certain strategic materials to Cuba was ruled out as legislation, since the provision was a permanent restriction on the authorization rather than upon the funds carried in the pending bill.

On June 4, 1970,[7] during consideration in the Committee of the

5. 79 CONG. REC. 9854, 74th Cong. 1st Sess.

6. Franklin W. Hancock, Jr. (N.C.).

7. 116 CONG. REC. 18403, 91st Cong. 2d Sess.

Whole of the foreign assistance appropriation bill (H.R. 17867), a point of order was raised against the following provision:

The Clerk read as follows:

Sec. 107. (a) No assistance shall be furnished under the Foreign Assistance Act of 1961, as amended, to any country which sells, furnishes, or permits any ships under its registry to carry to Cuba, so long as it is governed by the Castro regime, in addition to those items contained on the list maintained by the Administrator pursuant to title I of the Mutual Defense Assistance Control Act of 1951, as amended, any arms, ammunition, implements of war, atomic energy materials, or any other articles, materials or supplies of primary strategic significance used in the production of arms, ammunition, and implements of war or of strategic significance to the conduct of war, including petroleum products.

MR. [PETER H. B.] FRELINGHUYSEN [of New Jersey]: Mr. Chairman, I make a point of order against section 107(a) on the ground that it is legislation in an appropriations bill. . . . Mr. Chairman, section 620 of the Foreign Assistance Act contains similar restrictions, but they are much more detailed, specific, and restricted than those contained in the provision which I am seeking to strike from the appropriation bill.

THE CHAIRMAN:[8] Does the gentleman from Louisiana care to be heard?

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, your committee felt that the language contained a very definite limitation. The language itself states—

No assistance shall be furnished under the Foreign Assistance Act of 1961, as amended, to any country which sells, furnishes, or permits any ships under its registry to carry to Cuba—

That provision has stood up over the years as being a limitation. We feel that it is, and we ask the Chair for a ruling.

THE CHAIRMAN: The Chair is ready to rule. As the gentleman from New Jersey has pointed out, the language is similar but it is not identical with the provisions of section 620 of the Foreign Assistance Act as amended. In addition, it relates to provisions other than those contained in this bill, and the Chair sustains the point of order.

Ratios of U.S. Contribution to International Organizations to Total

§ 27.14 To a provision in a general appropriation bill, an amendment providing that in no case shall the United States contribution to any international organization exceed one-third of the estimated total annual cost was held to change existing law and, therefore, to be legislation on an appropriation bill.

On July 25, 1951,[9] during consideration in the Committee of the Whole of a general appropriation bill (H.R. 4740), a point of order

8. Hale Boggs (La.).

9. 97 CONG. REC. 8881, 8885, 82d Cong. 1st Sess.

was raised and sustained against the following amendment:

MR. [JOHN BELL] WILLIAMS of Mississippi: Mr. Chairman, I offer an amendment which is at the desk.

The Clerk read as follows:

Amendment offered by Mr. Williams of Mississippi: Page 6, line 6, after the period add a new proviso to read: "*Provided further,* That in no case shall the United States contribution to any international organization exceed one-third of the estimated total annual cost."

MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, I am constrained to insist upon the point of order that this is legislation on an appropriation bill. We already have basic legislation setting a ceiling on these contributions to international organizations.

THE CHAIRMAN:[10] Does the gentleman from Mississippi desire to be heard on the point of order?

MR. WILLIAMS of Mississippi: Mr. Chairman, I have nothing to say except that I insist it is a limitation of appropriations. The amendment speaks for itself.

THE CHAIRMAN: The amendment certainly goes far beyond being a limitation.

The gentleman from Mississippi has offered an amendment; the gentleman from New York has made a point of order against the amendment on the ground that it is legislation on an appropriation bill. The Chair invites attention to the fact that the amendment provides for changes in existing law with respect to international organizations and, of course, is legislation and not in order on an appropriation bill.

The Chair sustains the point of order.[11]

Funds From Any Other Source

§ 27.15 To a paragraph of a general appropriation bill, an amendment providing that no additional funds from "any other source" shall be expended for these purposes was held to go beyond the scope of the bill, not germane to it, and legislation on an appropriation bill.

On Apr. 24, 1951,[12] during consideration in the Committee of the Whole of the Department of the Interior appropriation bill (H.R. 3790), a point of order was raised against the following amendment:

MR. [BOYD] TACKETT [of Arkansas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Tackett: Page 4, line 3, after the word "granted", strike out the period, insert a semicolon and the following: "And no additional funds from any other source shall be expended for these purposes."

MR. [HENRY M.] JACKSON of Washington: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Arkansas

10. Jere Cooper (Tenn.).

11. The ruling would also be justified on grounds that the language at issue was not limited to funds in the bill.

12. 97 CONG. REC. 4300, 4301, 82d Cong. 1st Sess.

(Mr. Tackett) on the ground the amendment is not germane and that it is legislation on an appropriation bill. I make the further point of order, Mr. Chairman, that it goes beyond the scope of the bill as presented at this time. . . .

THE CHAIRMAN:[13] The Chair is prepared to rule.

The gentleman from Arkansas [Mr. Tackett] offers an amendment to line 3, page 4, of the bill. The provision of the bill sought to be amended has to do with construction by the Southwestern Power Administration. The bill before the House provides an appropriation of a specific amount of money for this purpose. The amendment offered by the gentleman from Arkansas [Mr. Tackett] has reference to funds from sources other than those contained in the bill before the committee; therefore it goes beyond the scope and the purposes of the bill presently before the committee.

The gentleman from Washington [Mr. Jackson] makes a point of order against the amendment. The Chair sustains the point of order.

Limitation on Any Appropriation for Department

§ 27.16 To be in order, a limitation must relate to the particular appropriation to which the words of limitation apply, and may not be applicable to funds not covered by the pending bill; thus, a provision in a general appropriation bill in the form of a limitation providing that no part of "any appropriation" for a department shall be expended for a specific purpose was held to be legislation since not confined solely to funds in the bill.

On Feb. 18, 1938,[14] the Committee of the Whole was considering H.R. 9544, a State, Justice, Commerce, and Labor Departments appropriation. At one point the Clerk read as follows:

No part of any appropriation for the Immigration and Naturalization Service shall be expended for any expense incident to any procedure by suggestion or otherwise, for the admission to any foreign country of any alien unlawfully in the United States for the purpose of endeavoring to secure a visa for readmission to the United States, or for the salary of any employee charged with any duty in connection with the readmission to the United States of any such alien without visa. . . .

MR. [SAMUEL] DICKSTEIN [of New York]: Mr. Chairman, I make the point of order that the language appearing on page 105 in lines 1 to 9 is legislation on an appropriation bill, which changes statutory law and creates new regulations without properly being before any committee or properly being passed upon by the Congress. . . .

MR. [JOHN W.] MCCORMACK [of Massachusetts]: . . . There is precedent to

13. Wilbur D. Mills (Ark.).

14. 83 CONG. REC. 2172–74, 75th Cong. 3d Sess.

the effect that a limitation must not give affirmative direction, and must not affect the discretion of an official of the executive branch of the Government; that the limitation must relate to the particular appropriation with reference to which the words of limitation apply.

The burden of proof is on the Committee on Appropriations to show that this is a limitation upon existing law. If any part of the limitation does not apply to existing law, although the greater part of the limitation might apply, then the point of order should be sustained. . . .

THE CHAIRMAN:[15] The Chair is ready to rule. . . .

. . . [T]he Chair sustains the point of order on the ground the Chair has just suggested, that the use of the words "any appropriation" in the bill makes this legislation on an appropriation bill. The Chair, therefore, sustains the point of order against the entire paragraph.

No Appropriation After Date of Enactment

§ 27.17 A limitation stating that no part of any appropriation shall be obligated for printing the Yearbook of Agriculture for 1942 was held to be legislation and not in order on an appropriation bill.

On Mar. 18, 1942,[16] the Committee of the Whole was considering H.R. 6802, a legislative branch appropriation bill. The Clerk read as follows:

. . . *Provided further,* That notwithstanding the provisions of section 73 of the act of January 12, 1895 (44 U.S.C. 241), no part of the foregoing sum of $3,985,000 shall be used for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture) and no part of any appropriation shall be obligated after the date of the enactment of this act for printing the Yearbook of Agriculture for 1942. . . .

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, I make a point of order against the language contained in the proviso beginning on line 21, page 44, and ending with line 3 on page 45, and particularly to that portion of the proviso which reads as follows:

> And no part of any appropriation shall be obligated after the date of the enactment of this act for printing the Yearbook of Agriculture for 1942. . . .

THE CHAIRMAN:[17] Does the gentleman from Kentucky desire to be heard on the point of order?

MR. [EMMET] O'NEAL [of Kentucky]: Mr. Chairman, we are perfectly willing to concede the point of order to the second part of the proviso. If the Chair holds that the entire proviso must be stricken, then I will offer an amendment to take care of the situation.

THE CHAIRMAN: The Chair sustains the point of order on the ground that if part of a proviso is faulty the entire proviso falls.

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15. Frank H. Buck (Calif.).

16. 88 CONG. REC. 2676, 2677, 77th Cong. 2d Sess.

17. William R. Thom (Ohio).

The point of order is sustained.

Limitation on "Any" Appropriation

§ 27.18 Language in an appropriation bill placing a limitation on funds not carried in the bill was held to be legislation: language in an appropriation bill providing that no part of "any appropriation" shall be used for a specified purpose was held to apply to funds not carried in the bill and therefore not in order.

On Mar. 30, 1955,[18] during consideration in the Committee of the Whole of the independent offices appropriation bill (H.R. 5240), the following point of order was raised:

MR. [OLIN E.] TEAGUE of Texas: Mr. Chairman, I make the point of order that it is legislation on an appropriation bill against the following language appearing on page 28, lines 15 through 19:

Provided further, That no part of any appropriation shall be used to pay educational institutions for reports and certifications of attendance at such institutions an allowance at a rate in excess of $1 per month for each eligible veteran enrolled in and attending such institution.

MR. [JOHN] PHILLIPS [of California]: Mr. Chairman, I do not believe that language is subject to a point of order. It is a limitation. It permits the spending of $1 instead of the previous amount of $1.50. This has been contemplated by the Veterans' Administration in setting up its budget. This has been in for 2 years.

The CHAIRMAN:[19] The Chair is ready to rule.

The Chair calls the attention of the gentleman to the fact that in line 15 the words "no part of any appropriation" are used. That goes beyond this appropriation bill. This is legislation on an appropriation bill, and the Chair sustains the point of order.

No Fund in This or Any Other Act

§ 27.19 In an appropriation bill a provision in the form of a limitation that no funds in this or any other act shall be available for payment of grants for development of a project for predominantly residential uses unless incidental uses are restricted to those normally essential for residential uses was conceded to be legislation.

On Mar. 30, 1954,[20] the Committee of the Whole was considering H.R. 8583, an independent offices appropriation bill. The Clerk read as follows:

Capital grants for slum clearance and urban redevelopment: For an addi-

18. 101 CONG. REC. 4077, 84th Cong. 1st Sess.

19. Albert Rains (Ala.).

20. 100 CONG. REC. 4108, 4109, 83d Cong. 2d Sess.

tional amount for payment of capital grants as authorized by title I of the Housing Act of 1949, as amended (42 U.S.C 1453, 1456), $39,000,000, to remain available until expended: *Provided*, That no funds in this or any other act shall be available for payment of capital grants under any contract involving the development or redevelopment of a project for predominantly residential uses unless incidental uses are restricted to those normally essential for residential uses. . . .

MR. [JACOB K.] JAVITS [of New York]: Mr. Chairman, I make a point of order against the proviso appearing on page 28, lines 13 to 18, on the ground it is legislation on an appropriation bill.

The CHAIRMAN:[1] Does the gentleman from California desire to be heard on the point of order?

MR. [JOHN] PHILLIPS [of California]: No, Mr. Chairman. I think we are compelled to concede the point of order and I submit an amendment to replace it.

§ 27.20 Language in an appropriation bill in the form of a limitation providing no part of the appropriation contained in this or any other act shall be used for a certain purpose is legislation and not in order.

On Feb. 8, 1939,[2] the Committee of the Whole was considering H.R. 3743, an independent offices appropriation. The Clerk read as follows:

Sec. 6. No part of any appropriation contained in this or any other act for the fiscal year ending June 30, 1940, shall be available for the payment of enlistment allowance to enlisted men for reenlistment within a period of 3 months from date of discharge as to reenlistments made during the fiscal year ending June 30, 1940, notwithstanding the applicable provisions of sections 9 and 10 of the act entitled "An act to readjust the pay and allowances of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service," approved June 10, 1922 (37 U.S.C. 13, 16).

MR. [EDOUARD V.M.] IZAC [of California]: Mr. Chairman, I make a point of order against the inclusion of this section in the bill.

MR. [CLIFTON A.] WOODRUM of Virginia: I concede the point of order, Mr. Chairman.

THE CHAIRMAN:[3] The point of order is well taken. . . . The Chair sustains the point of order.

Previous Appropriations

§ 27.21 A limitation, to be in order, may not apply to money already appropriated: an amendment in the guise of a limitation providing that "No appropriation heretofore made" shall be used for a certain purpose was held to

1. Louis E. Graham (Pa.).
2. 84 CONG. REC. 1263, 76th Cong. 1st Sess.
3. Fritz G. Lanham (Tex.).

embody legislation and therefore not in order on a general appropriation bill.

On Jan. 24, 1936,[4] during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R 10464), a point of order was raised against the following amendment:

> MR. [HENRY] ELLENBOGEN [of Pennsylvania]: Mr. Chairman, I offer the following substitute, which I send to the desk and ask to have read.
>
> The Clerk read as follows:
>
> > Substitute amendment offered by Mr. Ellenbogen: Page 16, line 6, strike out all of lines 6 to 12, inclusive, and insert in lieu thereof the following: "No appropriation heretofore made or contained in this bill shall be used for the enforcement of the provisions of the Potato Act of 1935, approved August 24, 1935."
>
> MR. [CLIFTON A.] WOODRUM [of Virginia]: Mr. Chairman, I make the point of order that that is legislation on an appropriation bill and is not germane to the amendment to which it is offered. It undertakes to put a limitation on money heretofore appropriated and not covered in this bill.
>
> MR. ELLENBOGEN: The appropriation contained on page 16 of the deficiency appropriation bill is for the purpose of enforcing the provisions of the Potato Act. Therefore, any amendment that seeks to limit or prevent the Department from enforcing that act is a proper amendment.
>
> THE CHAIRMAN:[5] The Chair is prepared to rule. The amendment offered by the gentleman from Pennsylvania, in the opinion of the Chair, goes further than indicated by the gentleman's statement in support of his amendment. The amendment, in the opinion of the Chair, very clearly embraces legislation which is not in order on an appropriation bill. The Chair, therefore, sustains the point of order.

Improvement of Capitol Limitation on "Funds Provided"

§ 27.22 To an appropriation bill providing for necessary expenditures for the Capitol Building, including minor improvements, an amendment to prohibit use of funds appropriated in a previous appropriation act for extension of the East Front of the Capitol, and an amendment providing that none of the funds provided shall be used for prosecuting the project of lifting out the front of the Capitol, were held to be legislation since not explicitly confined to funds provided in the bill.

On May 21, 1957,[6] The Committee of the Whole was considering H.R. 7599, a legislative branch appropriation bill. The Clerk read as follows:

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4. 80 CONG. REC. 989, 74th Cong. 2d Sess

5. Jere Cooper (Tenn.).

6. 103 CONG. REC. 7326, 7327, 85th Cong. 1st Sess

CAPITOL BUILDINGS AND GROUNDS

Capitol Buildings: For necessary expenditures for the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including minor improvements, maintenance, repair, equipment, supplies, material, fuel, oil, waste, and appurtenances; furnishings and office equipment; special and protective clothing for workmen; uniforms or allowances therefor as authorized by the act of September 1, 1954, as amended (5 U.S.C. 2131); personal and other services; cleaning and repairing works of art, without regard to section 3709 of the Revised Statutes, as amended; purchase or exchange, maintenance and operation of passenger motor vehicle; not to exceed $300 for the purchase of necessary reference books and periodicals; not to exceed $500 for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol; $897,100. . . .

Amendment offered by Mr. [Edgar W.] Hiestand [of California]: On page 14, immediately after line 2, insert the following: "*Provided*, That no funds provided in this section and no funds heretofore appropriated shall be expended to carry out the extension, reconstruction and replacement of the central portion of the United States Capitol authorized by the paragraph of the legislative appropriation act, 1956, which is under the heading 'Capitol Buildings and Grounds' and which begins with the words 'Extension of the Capitol'."

MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to this bill. It refers to funds which are not included in this bill, and further it is legislation upon an appropriation bill. . . .

THE CHAIRMAN:[7] The gentleman from New York [Mr. Rooney] makes the point of order that the amendment is not in order. The amendment very definitely relates to an appropriation heretofore made. Therefore, the Chair is of the opinion that the amendment is legislation and therefore subject to the point of order. The Chair sustains the point of order

MR. HIESTAND: Mr. Chairman, I offer an amendment which is at the Clerk's desk

The Clerk read as follows:

> Amendment offered by Mr. Hiestand: On page 14, line 2, after the period, insert "None of the funds provided shall be used for prosecuting the project of lifting out the front of the Capitol."[8] . . .

MR. ROONEY: Mr. Chairman, I renew the point of order against the amendment, that it is legislation on an appropriation bill.

THE CHAIRMAN: The Chair is of the opinion that the same objection applies to this amendment as applied to the last amendment, and the Chair therefore sustains the point of order.

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7. Francis E. Walter (Pa.).

8. The Chair apparently construed this language to apply arguably to funds previously appropriated, as well as funds in the present bill. If the language had referred more explicitly only to funds in the bill it might have been allowed as a limitation.

MR. HIESTAND: Mr. Chairman, may I speak to that point?

May I suggest that the amendment just submitted deals with $897,100, which has just been read this morning? I submit it is in order because it could not have been applied to any other fund. The first amendment did apply to previous appropriations.

THE CHAIRMAN: But the Chair would call attention to the fact that there is nothing in this paragraph, as the Chair understands it, that relates to that particular project or work.

MR. [JOHN] TABER [of New York]: Mr. Chairman, if the Chair will hear me just a moment.

THE CHAIRMAN: The gentleman from New York is recognized.

MR. TABER: Beginning on line 8, page 13, it reads:

> For necessary expenditures for the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol.

That means that money is available for all sorts of activities of the Architect of the Capitol, relating to the entire group of buildings.

THE CHAIRMAN: Of course, the gentleman conveniently stops at the comma on line 11 and did not read up to the next comma, "including minor improvements."

By no stretch of the imagination could this be considered a minor improvement.

The Chair sustains the point of order.

Termination of Existing Revolving Fund

§ 27.23 Language in an appropriation bill amounting to a limitation and providing that after June 30, 1959, unobligated funds in the revolving fund, Defense Production Act, be covered into the Treasury was held to be legislation and not in order

On Mar. 31, 1958,[9] the Committee of the Whole was considering H.R. 10589, a bill making appropriations for the Executive Office of the President, among other things. The Clerk read as follows:

REDUCTION IN BALANCES

Revolving fund, Defense Production Act: The unobligated balances available in the fund as of June 30, 1959, shall be withdrawn and covered into the Treasury as of the close of business June 30, 1959.

MR. [PAUL] BROWN of Georgia: Mr. Chairman, I make a point of order against the section beginning on line 9, page 5, and ending in line 13, page 5, as legislation on an appropriation bill.

THE CHAIRMAN:[10] Does the gentleman from Alabama desire to be heard?

MR. [GEORGE W.] ANDREWS [of Alabama]: Mr. Chairman, we concede the point of order.

THE CHAIRMAN: The point of order is conceded.

The Chair sustains the point of order.

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9. 104 CONG. REC. 5817, 85th Cong. 2d Sess.

10. Richard Bolling (Mo).

Rescission; Disaster Relief

§ 27.24 To an appropriation bill, an amendment providing a rescission of funds for "Disaster Relief" appropriated in other acts was held to be not germane and to be legislation on an appropriation bill.

On Mar. 19, 1952,[11] during consideration in the Committee of the Whole of the independent offices appropriation bill (H.R. 7072), a point of order was raised against the following amendment:

MR. [TOM] PICKETT [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Pickett: On page 3, after line 14, insert a new heading and the following language:

DISASTER RELIEF

"The unobligated balances at the end of June 30, 1952, of appropriations heretofore made for Disaster Relief under the act of September 30, 1950 (Public Law 875); the Independent Offices Appropriation Act of 1952; act of July 18, 1951 (Public Law 80); and the act of October 24, 1951 (Public Law 202), shall to the extent that they exceed in the aggregate $5,000,000, not be available for obligation after June 30, 1952, and shall be recovered to the Treasury as miscellaneous receipts."

MR. [CLARENCE] CANNON [of Missouri]: Mr. Chairman, I make the point of order, first, that the amendment is not germane to the bill. It has no relation to any item in the bill.

Second, it is legislation on an appropriation bill.

On both counts, or on either count, it is subject to a point of order.

THE CHAIRMAN:[12] Does the gentleman from Texas [Mr. Pickett] desire to be heard on the point of order?

MR. PICKETT: Mr. Chairman, it occurs to me that this is a limitation of an appropriation. Its effect certainly is to recover into the Treasury moneys which are just floating around, and apparently serving no purpose at this time. It never occurred to me, of course, notwithstanding whatever the rule might be, that we would avoid trying to save money here just by raising points of order. It seems to me that we might save a little money by even legislating some time. I hope the point of order will be overruled.

THE CHAIRMAN: The Chair is ready to rule. The gentleman from Texas [Mr. Pickett] has offered an amendment. The gentleman from Missouri [Mr. Cannon] makes a point of order against the amendment on the ground it is not germane to the bill before the Committee and that it is legislation on an appropriation bill. The Chair has had an opportunity to read the amendment proposed by the gentleman from Texas. The amendment does not, as the Chair understands, apply to funds contained in the pending bill H.R. 7072, but has reference to funds which have been made available by the Congress in other legislation. Therefore, the amendment is not germane and is clearly legislation on an appropriation

11. 98 CONG. REC. 2543, 82d Cong. 2d Sess.

12. Wilbur D. Mills (Ark.).

bill. The Chair is constrained to sustain the point of order.

Words of Permanency; Funds "Hereafter" Appropriated

§ 27.25 An amendment to an appropriation bill in the form of a limitation but containing the word "hereafter" was held to be legislation and not in order.

On Jan. 31, 1936,[13] the Committee of the Whole was considering H.R. 10630, an Interior Department appropriation. At one point the Clerk read as follows:

> For reimbursable loans to Indians for the payment of tuition and other expenses in recognized vocational and trade schools, including colleges and universities offering recognized vocational, trade, and professional courses, in accordance with the provision of the act of June 18, 1934 (48 Stat., p. 986), the unexpended balance of the appropriation for the fiscal year 1936 is continued available until June 30, 1937: *Provided*, That no more than $50,000 of such unexpended balance shall be available for loans to Indian students pursuing liberal-arts courses in high schools and colleges. . . .
>
> Amendment offered by Mr. [Byron N.] Scott [of California]: On page 48, line 13, after the word "Interior", add: "*Provided*, That hereafter no part of any appropriation for these Indian schools shall be available for the salary of any person teaching or advocating the legislative program of the American Liberty League."
>
> MR. [EDWARD T.] TAYLOR of Colorado: Mr. Chairman, I make a point of order against the amendment. It is legislation on an appropriation bill. . . .
>
> THE CHAIRMAN:[14] The Chair is ready to rule. The word "hereafter" in the amendment makes the provision permanent legislation. Permanent legislation on an appropriation bill would not be in order. The language of the amendment here offered not only applies to the appropriations of this bill but it would apply to subsequent appropriations. Therefore, the amendment contains legislation; and the point of order is sustained.

Change of Prior Limitation

§ 27.26 An amendment to an appropriation bill seeking to change a limitation on a previous appropriation bill was held to be legislation and not in order.

On Dec. 6, 1944,[15] during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R 5587), a point of order was raised against the following amendment:

> Amendment offered by Mr. [Malcolm C.] Tarver [of Georgia]: On page 19, line 3, insert a new paragraph, as follows:

13. 80 CONG. REC. 1300, 1305, 1306, 74th Cong. 2d Sess.

14. Robert L. Doughton (N.C.).

15. 90 CONG. REC. 8940, 8941, 78th Cong. 2d Sess.

"CONSERVATION AND USE OF AGRICULTURAL LAND RESOURCES

"The limitation on expenditures under the 1944 program of soil-building practices and soil- and water-conservation practices established in the fourth proviso clause of appropriation 'Conservation and use of agricultural land resources,' in the Department of Agriculture Appropriation Act, 1944, is hereby increased from $300,000,000 to $313,000,000 (exclusive of the $12,500,000 provided in the Department of Agriculture Appropriation Act, 1945, for additional seed payments)."

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order that this is legislation on an appropriation bill. The change of a limitation is a change of existing law, and it has been so held repeatedly.

MR. TARVER: Mr. Chairman, the Soil Conservation and Domestic Allotment Act authorizes the promulgation of programs to cost not in excess of $500,000,000 annually. In the Agricultural Appropriation Act of 1944 the Congress undertook to impose a limitation of $300,000,000 upon the administrative authorities in the promulgation of the over-all program for the calendar year 1944, which program included not only payments and grants for soil-conservation and water-conservation practices, but the furnishing in advance of seeds, limes, fertilizers, trees and other agricultural materials to be used in soil-conservation work and to be charged against the benefits accruing to the farmers in subsequent crop years.

I think that a correct understanding of the amendment which I have proposed involves reference to the Budget document in which it was submitted to the Congress, House Document 793, Seventy-eighth Congress, second session, in which this identical language was recommended by the Budget, and in the explanation of the language it is clearly pointed out that it does not involve the expenditure of any additional moneys. In other words, this amendment, if adopted, does not appropriate or make available to the administrative authorities one single dollar of moneys which are not already available to them but it simply authorizes the use by them of moneys which have been allocated to the seed, fertilizer, lime, and tree program for the discharge of liabilities incurred under the program for the payments and grants for soil and water-conservation practices. It is, therefore, in effect a reallocation of the funds which have already been appropriated by Congress.

I may say that that original allocation of funds was not made by the Congress in the enactment of the Agricultural Appropriation Act of 1944, but was made by departmental authorities without mandatory instructions from the Congress to make such allocations, although it probably was a matter within their administrative discretion. So I insist that the Congress by the imposition of the limitation in the Agricultural Appropriation Act of 1944 did not so tie its hands as to make it impossible for the same Congress or for a subsequent Congress to appropriate funds or to review and revise the allocation of funds already appropriated for the purposes outlined in the Soil Conservation and Domestic Allotment Act, so long as it does not exceed the limitation for maximum appropriation provided in that act, which, as I have pointed out, is $500,000,000.

I respectfully insist, Mr. Chairman, that the amendment is in order and the point of order should be overruled.

THE CHAIRMAN:[16] Does the gentleman from New York insist on his point of order?

Mr. TABER: I do, Mr. Chairman.

THE CHAIRMAN: The point of order raised by the gentleman from New York is correct, and the Chair sustains the point of order.

Acquisition of Property by Gift "Hereafter" Contingent Upon Prior Appropriation for Maintenance.

§ 27.27 Language in an appropriation bill providing that "hereafter the authority of the Secretary of the Interior . . . to acquire by gift on behalf of the United States any historic site, building, object, and antiquity of national significance, shall not be effective until an appropriation has been made for the operation and maintenance thereof subsequently to such proposed acquisition," was held to be a change in law and legislation on an appropriation bill.

On Mar. 20, 1939,[17] during consideration in the Committee of the Whole of the Interior Department appropriation bill (H.R. 4852), a point of order was sustained against the following provision:

The Clerk read as follows:

Historic sites and buildings: For carrying out the provisions of the act entitled "An act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes," approved August 21, 1935 (49 Stat. 666), including personal services in the District of Columbia, $24,000: Provided, That hereafter the authority of the Secretary of the Interior contained in such act, to acquire by gift on behalf of the United States any historic site, building, object, and antiquity of national significance, shall not be effective until an appropriation has been made for the operation and maintenance thereof subsequently to such proposed acquisition.

MR. [SCHUYLER OTIS] BLAND [of Virginia]: Mr. Chairman, I desire to make a point of order against the proviso, commencing with the word "*Provided*," line 17, page 119, down to the end of the paragraph, in that it is legislation on an appropriation bill. According to the report, it expressly changes the language of the act.

THE CHAIRMAN:[18] Does the gentleman from Oklahoma [Mr. Johnson] desire to be heard?

MR. [JED] JOHNSON: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The point of order is sustained.

16. Herbert C. Bonner (N.C.).

17. 84 CONG. REC. 3000, 76th Cong. 1st Sess.

18. Frank H. Buck (Calif.).

Restriction on "Contribution to U.N."

§ 27.28 A provision in a general appropriation bill directing the President to "assure that no contribution to the United Nations Development Program authorized by the Foreign Assistance Act of 1961 . . . shall be used for projects for economic or technical assistance to the Government of Cuba, so long as Cuba is governed by the Castro regime," was ruled out as legislation [constituting a directive to the President and not confined to the funds carried in the bill].

On June 4, 1970,[19] during consideration in the Committee of the Whole of the foreign assistance appropriation bill (H.R. 17867), a point of order was raised against the following provision:

> Technical assistance: For necessary expenses as authorized by law $310,000,000, distributed as follows:
>
> (1) World-wide, $151,000,000 (section 212);
>
> (2) Alliance for Progress, $75,000,000 (section 252(a)); and
>
> (3) Multilateral organizations, $85,000,000 (section 302(a)), of which not less than $13,000,000 shall be available only for the United Nations Children's Fund: *Provided,* That no part of this appropriation shall be used to initiate any project or activity which has not been justified to the Congress, except projects or activities relating to the reduction of population growth; *Provided further,* That the President shall seek to assure that no contribution to the United Nations Development Program authorized by the Foreign Assistance Act of 1961, as amended, shall be used for projects for economic or technical assistance to the Government of Cuba, so long as Cuba is governed by the Castro regime. . . .
>
> Mr. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, a point of order.
>
> THE CHAIRMAN:[20] . . . The Chair will hear the gentleman from Wisconsin on his point of order.
>
> Mr. ZABLOCKI: Mr. Chairman, I make the point of order that the entire proviso beginning on line 20 and ending on line 25 of page 2 is legislation in an appropriation. I am for its objectives, but in effect it simply says that the President should try to enforce existing law. The provisions in existing law, section 620 of the Foreign Assistance Act are stronger and there is no sense in this useless repetition in an appropriation
>
> Mr. Chairman, I make the point of order that this is legislation on an appropriation bill.
>
> THE CHAIRMAN: Does the gentleman from Louisiana wish to be heard on the point of order?
>
> Mr. [OTTO E.] PASSMAN [of Louisiana]: Yes, sir, Mr. Chairman The

19. 116 CONG. REC. 18395, 18396, 91st Cong. 2d Sess.

20. Hale Boggs (La.).

proviso was added by the Committee on Appropriations in the foreign assistance appropriation bill for fiscal year 1965 in order to insure that no U.S. contribution to the UNDP would be used to give any type of economical or technical assistance to Cuba as long as Cuba is governed by the Castro regime.

I would like to interpret this as a limitation on an appropriation bill and ask for a ruling.

THE CHAIRMAN: The language in question is as follows: Line 20, page 2:

> *Provided further,* That the President shall seek to assure. . . .

And so forth.

That is obviously a directive to the President of the United States, it is not limited in application to the funds appropriated in this bill or any section thereof, and the Chair sustains the point of order.

Restricting "Amounts for Education Grants"

§ 27.29 In a paragraph of a general appropriation bill containing funds for higher education assistance, language restricting the availability of "amounts for basic opportunity grants" to full-time students in the first three years of college was held not to be confined to funds in the bill and was ruled out as legislation affecting amounts appropriated under other acts.

On June 27, 1974,[1] during consideration in the Committee of the Whole of the Departments of Labor and Health, Education, and Welfare appropriation bill, the proceedings as indicated above occurred as follows:

> For carrying out, to the extent not otherwise provided, titles I, III, IV, section 745 of title VII, and parts A, B, C, and D of title IX, and section 1203 of the Higher Education Act . . . *Provided,* That amounts for basic opportunity grants shall be available only for full-time students at institutions of higher education who are not enrolled as regular students (as defined by the Commissioner of Education) at such institutions prior to April 1, 1973. . . .
>
> MRS. [EDITH] GREEN of Oregon: Mr. Chairman, I make a point of order against the language which occurs on page 18, beginning on line 7 and continuing through line 11 as legislation on an appropriation bill. The law at the present time, the general law says that the basic opportunity grants should be available to all students in freshmen, sophomore, junior, and senior years and students in the 5th year, part-time students, and last year we had restricted it to apply to freshmen and sophomores. This language further changes the law by saying basic opportunity grants shall be available only to freshmen, sophomores, and juniors, and therefore it is legislation on an appropriation bill changing the intent of the original law.
>
> MR. [DANIEL J.] FLOOD [of Pennsylvania]: . . . I believe this language in

1. 120 CONG. REC. 21670, 21671, 93d Cong. 2d Sess.

question is clearly conditioned on the use of funds in the bill and therefore not subject to a point of order.

It is a well-established principle and I quote:

> The House in the Committee of the Whole has the right to refuse to appropriate for any object either in whole or in part even though the object is authorized by law.

Mr. Chairman, in this case we are very simply eliminating the payments for these basic opportunity grants to students who are enrolled at institutions of higher learning after April 1, 1973, and excluding, expressly excluding students who were enrolled prior to April 1, 1973. . . .

THE CHAIRMAN:[2] . . . The gentleman from Pennsylvania makes some interesting and indeed some valid points with respect to what has been in the past and is uniformly accepted as a limitation on an appropriation bill.

The Chair must observe, however, that there is one distinguishing characteristic with regard to this proviso as it is presently written which differentiates it from valid limitations. The proviso as presently written does not specify that it is a limitation upon amounts appropriated in this bill. This, indeed, may have been the intention of those who drafted the bill, but the proviso is not drafted negatively and the Chair observes that the proviso as presently drafted would stipulate that amounts for basic opportunity grants shall be made available only to certain students.

If the Chair is correctly advised, the Chair believes that the language, literally read, could subject this proviso to the interpretation of being a limitation upon amounts previously appropriated under other acts in that it does not stipulate that its application would be intended specifically to funds provided in this bill or in this paragraph.

For that reason, the Chair sustains the point of order of the gentlewoman from Oregon.

Disapproval of Deferral

§ 27.30 A paragraph in a general appropriation bill providing congressional disapproval of a deferral of budget authority proposed by the President pursuant to the Impoundment Control Act is legislation in violation of Rule XXI clause 2.

On July 29, 1982,[3] During consideration in the Committee of the Whole of H.R. 6863 (supplemental appropriation bill), a point of order was sustained against the following provision in the bill:

> The Clerk read as follows:
>
> The Congress disapproves $100,000 of the proposed deferral D82–225 relating to the Department of Commerce, Bureau of the Census, "Periodic censuses and programs" as set forth in the message of February 5, 1982, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this bill and the amount of the proposed deferral

2. James C. Wright, Jr. (Tex.).

3. 128 CONG. REC. 18625, 97th Cong. 2d Sess.

disapproved herein shall be made available for obligation.

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Chairman, I raise a point of order against this section of the bill. . . .

[I]n clause 2 of rule XXI, it states that legislation in an appropriation bill is not appropriate. This is a disapproval of a deferral, which is legislation in an appropriation bill, therefore, I think, Mr. Chairman, it is subject to a point of order against it under clause 2 of rule XXI. . . .

MR. [NEAL] SMITH of Iowa: Mr. Chairman, I will point out that there are three or four deferrals in here, and obviously, that is true. We could report separate bills and take up the time of the House, but all we are doing here is avoiding that. The committee is in full agreement on both sides of the aisle. This is just avoiding taking up the time of the House with a number of separate bills. So there is no need for it. We just put that in here to do it in an easier way.

MR. WALKER: . . . The point that this gentleman from Pennsylvania is making is that they are inappropriate in a bill which makes appropriations under the rules of the House, and I am simply trying to sustain the rules.

THE CHAIRMAN:[4] Does the gentleman from Pennsylvania (Mr. Walker) insist on his point of order?

MR. WALKER: I insist on my point of order, Mr. Chairman.

THE CHAIRMAN: The Chair sustains the point of order.

Parliamentarian's Note: While the Impoundment Control Act (Public Law No. 93–344, title X) provided a procedure for privileged consideration of resolutions of disapproval of Presidential deferrals of budget authority, and while the Committee on Appropriations is an appropriate committee for referral of such resolutions, such provisions when included in general appropriation bills are nevertheless legislation changing the procedure for congressional disapproval.

4. George E. Brown, Jr. (Calif.).

§ 28. Provisions Affecting Funds Held in Trust

Diverting From Highway Trust Fund

§ 28.1 The appropriation for a new purpose not authorized by law of funds held in trust in the Treasury for a different purpose, is legislation, changing the nature of the trust fund and not in order on an appropriation bill.

On May 28, 1959,[5] during consideration in the Committee of the Whole of a general appropriation bill (H.R. 7349), a point of order was raised against the following provision:

5. 105 CONG. REC. 9351, 86th Cong. 1st Sess.