

ment prohibiting the use of international narcotics control funds contained therein for the eradication of marihuana through the use of paraquat unless used with another substance which effectively warns potential users of the marihuana that paraquat has been used on it, was ruled out as legislation requiring new duties and determinations of the executive branch (where an authorization bill requiring similar findings had not yet been signed into law).

The ruling of the Chair on Aug. 4, 1978,<sup>(7)</sup> was that, while a limitation on the use of funds in a general appropriation bill does not constitute a violation of Rule XXI clause 2 if it merely restates identical language in existing law, the legislation in question must have been signed into law. The proceedings are discussed in § 23.24, *supra*.

## § 60. District of Columbia

### *Limiting Duties of Teachers, Not Funds*

#### § 60.1 A provision in a District of Columbia appropriation

7. 124 CONG. REC. 24436, 24437, 95th Cong. 2d Sess.

**bill that teachers shall not perform any clerical work except that necessary or incidental to their regular classroom teaching assignments was ruled out as legislation.**

On Apr. 2, 1937,<sup>(8)</sup> the Committee of the Whole was considering provisions of H.R. 5996, relating to appropriations for personal services of teachers.

For personal services of teachers and librarians in accordance with the act approved June 4, 1924 (43 Stat., pp. 367-375) . . . \$7,157,820: *Provided*, That as teacher vacancies occur during the fiscal year 1938 in grades 1 to 4, inclusive, of the elementary schools, such vacancies may be filled by the assignment of teachers now employed in kindergartens . . . : *Provided further*, That teachers shall not perform any clerical work except that which is necessary or incidental to their regular classroom teaching assignments. . . .

MR. [JACK] NICHOLS [of Oklahoma]: Mr. Chairman, I make a point of order against the language contained on page 25, beginning in line 4, as follows—

That teachers shall not perform any clerical work except that which is necessary or incidental to their regular classroom teaching assignments—

for the reason that it is legislation and modifies existing law. . . .

THE CHAIRMAN:<sup>(9)</sup> Patently this is legislation on a general appropriation

8. 81 CONG. REC. 3106, 3107, 75th Cong. 1st Sess.

9. Jere Cooper (Tenn.).

bill, and there is no saving or retrenchment shown. Therefore, it being legislation, the Chair sustains the point of order.

***Directing Water Supply Treatment in District of Columbia***

**§ 60.2 An amendment to an appropriation bill providing that the Commissioners of the District of Columbia shall provide for treating the water supply of the District of Columbia with a fluoride for dental protection was conceded to be legislation on an appropriation bill and held not in order.**

On June 7, 1951,<sup>(10)</sup> during consideration in the Committee of the Whole of the District of Columbia appropriation bill (H.R. 4329), a point of order was raised against the following amendment:

MR. [ARTHUR L.] MILLER of Nebraska: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Miller of Nebraska: Page 17, line 12, after the period, insert "*Provided further*, That the Board of Commissioners shall provide for treating the water supply of the District of Columbia with a fluoride or chemical compound to the extent that it will provide dental protection for the people of the District of Columbia."

10. 97 CONG. REC. 6271, 82d Cong. 1st Sess.

MR. [JOE B.] BATES of Kentucky: Mr. Chairman, I make the point of order against the amendment on the ground that it is legislation on an appropriation bill. . . .

Mr. Chairman, I insist on my point of order.

MR. MILLER of Nebraska: I concede the point of order, Mr. Chairman.

THE CHAIRMAN:<sup>(11)</sup> The gentleman from Nebraska concedes the point of order, and the Chair sustains the point of order.

***Emergency Authority Conferred on Federal Official***

**§ 60.3 An amendment in the form of a limitation providing that no part of an appropriation be used for the purchase or sale of real estate or for establishing new offices outside the District of Columbia, except that in an emergency, when Congress is not in session, approval may be given therefor by the Director of the Budget, was conceded to be legislation and held not in order.**

On Apr. 14, 1949,<sup>(12)</sup> During consideration in the Committee of the Whole of the independent offices appropriation bill (H.R.

11. Charles M. Price (Ill.).

12. 95 CONG. REC. 4657, 81st Cong. 1st Sess.

4177), a point of order was raised against the following amendment:

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I offer an amendment in behalf of the committee.

The Clerk read as follows:

Amendment offered by Mr. Case of South Dakota: On page 63, line 3, insert a new section in lieu thereof, as follows:

"Sec. 109. No part of any appropriations made available by the provisions of this title shall be used for the purchase or sale of real estate or for the purpose of establishing new offices outside the District of Columbia: *Provided*, That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor: *Provided further*, That in the event of an emergency, when the Congress is not in session, approval may be given by the Director of the Bureau of the Budget, within the limits of available funds."

MR. [JOHN W.] McCORMACK [of Massachusetts]: Mr. Chairman, a point of order. I make the point of order, Mr. Chairman, that that is legislation on an appropriation bill, the latter part of the amendment giving additional power and responsibility to the Director of the Budget.

THE CHAIRMAN:<sup>(13)</sup> Does the gentleman from South Dakota desire to be heard on the point of order?

MR. CASE of South Dakota: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The Chair sustains the point of order.

### ***Authorizing Travel***

#### **§ 60.4 Language in an appropriation bill providing that,**

13. Francis E. Walter (Pa.).

**"when specifically authorized by the Commissioners this appropriation may be used for visiting any ward of the Department of Public Welfare placed outside of the District of Columbia and the States of Virginia and Maryland" was conceded and held to require additional duties and not to be in order.**

On Apr. 8, 1957,<sup>(14)</sup> during consideration in the Committee of the Whole of the District of Columbia appropriation bill (H.R. 6500), a point of order was raised against the following provision:

The Clerk read as follows:

#### PUBLIC WELFARE

Department of Public Welfare, including relief and rehabilitation of indigent residents, maintenance pending transportation of indigent persons, burial of indigent residents of the District of Columbia, temporary care of children while being transferred from place to place . . . and care of boys committed to the National Training School for Boys by the courts of the District of Columbia under a contract to be made by the Commissioners or their designated agent with the Attorney General at a rate of not to exceed the actual cost for each boy committed, \$12,450,000: *Provided*, That when specifically authorized by the Commissioners this appropriation may be used for visiting any ward of the Department of Public Welfare placed outside of the District of Columbia and the States of Virginia and Maryland. . . .

14. 103 CONG. REC. 5293, 85th Cong. 1st Sess.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Chairman, I make a point of order.

THE CHAIRMAN:<sup>(15)</sup> The gentleman will state it.

MR. HOFFMAN: My point of order is with reference to the language on page 16, line 9, beginning with the word "Provided" down to and including the word "Maryland" on line 13. That is legislation on an appropriation bill in that it requires additional duties of the Commissioners and also is unlimited as to amount. It may be used in visiting any ward of the Department of Public Welfare anywhere in the United States. The language says outside the District of Columbia and the States of Virginia and Maryland. That would permit them to travel anywhere.

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

MR. [LOUIS C.] RABAUT: Mr. Chairman, this language has been carried in the bill for probably 4 years. The language itself indicates its purpose. If the gentleman insists on his point of order, I will have to concede the point of order.

MR. HOFFMAN: Mr. Chairman, of course I insist on the point of order; otherwise I would not have made it.

MR. RABAUT: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The point of order is sustained.

### ***Restriction on Obligational Authority***

#### **§ 60.5 Language in a supplemental appropriation bill**

15. Charles M. Price (Ill.).

**providing for "such sums as may be necessary" for public buildings projects in the District of Columbia and further specifying that "no obligation shall be incurred for any . . . project . . . which will (1) result in a deficit in the general fund of the District of Columbia, or (2) exceed the estimated cost as submitted therein to the Congress" was held to be legislation and not in order.**

On June 23, 1960,<sup>(16)</sup> During consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 12740), a point of order was raised against the following provision:

CAPITAL OUTLAY, PUBLIC BUILDING  
CONSTRUCTION AND DEPARTMENT OF  
SANITARY ENGINEERING

For an additional amount for "Capital outlay, Public Building Construction" and "Capital outlay, Department of Sanitary Engineering", for construction projects as authorized by the Act of April 22, 1904 (33 Stat. 244), the Act of May 18, 1954 (68 Stat. 105), and the Act of June 6, 1958 (72 Stat. 183) and as submitted to the Congress in House Document Numbered 403 of June 1, 1960, such sums as may be necessary, but no obligation shall be incurred for any item or project proposed in said document which will (1) result in a def-

16. 106 CONG. REC. 14086, 86th Cong. 2d Sess.

icit in the general fund of the District of Columbia, or (2) exceed the estimated cost as submitted therein to the Congress.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I make a point of order against the language appearing on page 5, beginning with line 3 and running through line 16. I refer especially to the following language:

But no obligation shall be incurred for any item or project proposed in said document which will (1) result in a deficit in the general fund of the District of Columbia, or (2) exceed the estimated cost as submitted therein to the Congress.

Mr. Chairman, I make the point of order that this is legislation on an appropriation bill and is subject to other considerations.

MR. [ALBERT] THOMAS [of Texas]: Mr. Chairman, it certainly was the intention of the committee, and we think the language is clear, to put a straight limitation on the use of these funds.

THE CHAIRMAN:<sup>(17)</sup> The Chair is prepared to rule.

The gentleman from Iowa makes a point of order against certain language on page 5. The Chair has had an opportunity to study this language, and finds that there is no question but what this is legislation on an appropriation bill. Therefore the Chair sustains the point of order.

### ***Imposing New Employment Quotas***

#### **§ 60.6 An amendment providing that no funds appro-**

17. Aime J. Forand (R.I.).

**priated in the act shall be available for the appointment of persons to non-civil-service positions in excess of certain quotas applicable by law only to appointments to classified positions was held to be legislation and not a limitation.**

On Mar. 28, 1940,<sup>(18)</sup> During consideration in the Committee of the Whole of a general appropriation bill [H.R. 9007], a point of order was raised against the following provision:

The Clerk read as follows:

Sec. 702. No funds appropriated in this act shall be available for the appointment of persons to non-civil-service positions in the departmental service in the District of Columbia unless such appointment is not in excess of the quota of apportionment, established in the manner provided by the civil-service laws for appointment in the classified civil service, for positions (compensated by the funds in the respective titles of this act) of a non-civil-service character: *Provided*, That this section shall not apply to any position, the appointment of which is made by the President.

MR. [SCHUYLER OTIS] BLAND [of Virginia]: Mr. Chairman, I make a point of order against the section on the ground that it is legislation on an appropriation bill.

THE CHAIRMAN:<sup>(19)</sup> Does the gentleman from Georgia desire to be heard on the point of order?

18. 86 CONG. REC. 3632, 76th Cong. 3d Sess.

19. Frank H. Buck (Calif.).

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, I was aware, of course, that a point of order would be made. I am of the opinion that the language in the section is clearly a limitation on the appropriation and comes within the spirit of the Holman rule. I am advised, however, that the Parliamentarian maintains other views, and for this reason I shall not resist the sustaining of the point of order although I desire to offer amendatory language to take the place of the stricken section.

THE CHAIRMAN: The Chair is ready to rule. In the opinion of the Chair, the language in lines 14 and 15, "unless such appointment is not in excess of the quota of apportionment," and so forth, is clearly subject to a point of order.

The Chair sustains the point of order.

***Authorizing Employment at Rates to be Set by Corporation Counsel***

**§ 60.7 A paragraph in a general appropriation bill for the District of Columbia permitting the use of funds in the bill by the Office of the Corporation Counsel to retain professional experts at rates fixed by the commissioner was conceded to be legislation and was ruled out in violation of Rule XXI clause 2.**

On June 18, 1973,<sup>(20)</sup> during consideration in the Committee of

<sup>20</sup>. 119 CONG. REC. 20068, 93d Cong. 1st Sess.

the Whole of the District of Columbia appropriation bill (H.R. 8685), the following point of order was raised:

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I make a point of order against the language to be found on page 11, lines 5 through 10, as not being a limitation upon an appropriation bill, and not authorized.

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

Sec. 5. Appropriations in this Act shall be available for services as authorized by 5 U.S.C. 3109 and shall be available to the Office of the Corporation Counsel to retain the services of consultants including physicians, diagnosticians, therapists, engineers, and meteorologists at rates to be fixed by the Commissioner.

THE CHAIRMAN:<sup>(1)</sup> Does the gentleman from Kentucky desire to be heard on the point of order raised by the gentleman from Iowa (Mr. Gross)

MR. [WILLIAM H.] NATCHER [of Kentucky]: Mr. Chairman, I should like to say to the members of the Committee that this is a new provision that is carried in the bill at this time. This was sent up from downtown. We at this time, Mr. Chairman, concede the point of order.

THE CHAIRMAN: The point of order is sustained.

<sup>1</sup>. Dante B. Fascell (Fla.).