

to an appropriation bill may provide that none of the funds therein shall be available for payments on certain contracts, and 4 Hinds' Precedents, section 3987, lays down the principle that an appropriation may be withheld from a designated object although contracts may be left unsatisfied thereby.

The amendment in issue does not seek to directly change a formula, repeal a provision of law or require the use or allocation of funds contrary to law. It simply denies appropriation for a purpose which is authorized by law. For that reason the Chair overrules the point of order.

## § 70. Defense

### *Prohibiting Funds for Invasion of North Vietnam*

**§ 70.1 To a bill making supplemental defense appropriations, an amendment providing that none of the funds so appropriated be available for implementation of any plan to invade North Vietnam was held in order as a valid limitation restricting the availability of funds.**

On Mar. 16, 1967,<sup>(7)</sup> the Committee of the Whole was considering H.R. 7123. During the proceedings, a point of order against

7. 113 CONG. REC. 6886, 6887, 90th Cong. 1st Sess.

an amendment was overruled as indicated:

Amendment offered by Mr. [George E.] Brown of California: On page 7, after line 13, insert the following:

“General Provision.—None of the funds appropriated in this Act shall be available for the implementation of any plan to invade North Vietnam with ground forces of the United States, except in time of war.”

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I make the point of order against the amendment that it is legislation on an appropriation bill. It appears to be a limitation, but it is in fact legislation, and I make a point of order on that ground. . . .

MR. BROWN of California: Mr. Chairman, I regret that the distinguished chairman of the Committee [on Appropriations] has seen fit to raise a point of order in connection with my amendment in view of the language which is already contained in the bill with regard to limitations on expenditures with regard to airlift and in view of the precedents of the House with regard to limitations of this sort. . . .

I would like to cite for the benefit of the Chairman Cannon's precedents, paragraph 1657:

On March 22, 1922, the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was read:

“No part of the appropriations made herein for pay of the Army shall be used, except in time of emergency, for the payment of troops garrisoned in China or for payment of more than 500 officers and enlisted men on the Continent of Eu-

rope; nor shall such appropriations be used, except in time of emergency”—

And I call your attention specifically to the phrase “except in time of emergency”—

“for the payment of more than 5,000 enlisted men in the Panama Canal Zone or more than 5,000 enlisted men in the Hawaiian Islands.”

A point of order was made against this amendment on the same grounds that the distinguished chairman of the Committee on Appropriations, the gentleman from Texas [Mr. Mahon], has just made his point of order—that it constituted legislation in a general appropriation bill.

Mr. Chairman, the then chairman, Nicholas Longworth of Ohio, ruled, in part, as follows:

The Chair will be very frank in saying that he is so much opposed to this proposition that he has tried to find some way of holding it out of order. But the Chair does not see how that is possible in any way in compliance with the rules of the House. . . .

THE CHAIRMAN:<sup>(8)</sup> the Chair is prepared to rule.

The Chair is aware of the precedents cited by the gentleman from California [Mr. Brown].

It appears clear to the Chair that the effect of the amendment would be to impose a limitation upon the funds provided in this appropriation bill. It is not within the province of the Chair to pass judgment upon the broad philosophical intent or purpose or, indeed, upon the broad philosophical effect of such an amendment.

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

The amendment, under the rules, appears clearly to follow precedents. Its effect would be to restrict the application for funds otherwise provided in the bill, and it appears to the Chair that the amendment is in order as a limitation upon an appropriation bill—and the Chair so rules. The Chair overrules the point of order.

### *Age of Draftees*

**§ 70.2 A proposed amendment to an appropriation bill providing that the appropriations in the Act not be available for the pay or allowance of any person over a specified age who is inducted without his consent into the armed forces, and that such appropriations not be available, after a certain date, for any other person inducted without his consent, was held to be a proper limitation and in order.**

On Apr. 13, 1949,<sup>(9)</sup> the Committee of the Whole was considering H.R. 4146, a national military establishment appropriation bill. The Clerk read as follows:

Amendment offered by Mr. [James G.] Fulton [of Pennsylvania]: On page 76, insert after line 12, the following new section:

“Sec. 601. The appropriations in this act shall not be available for the pay,

9. 95 CONG. REC. 4533, 81st Cong. 1st Sess.

allowances, or travel of any person inducted without his consent into the armed forces under the Selective Service Act of 1948, who is, on July 1, 1949, over 22 years of age. The appropriations in this act shall not be available, after September 24, 1949, for the pay, allowances, or travel of any other person inducted without his consent into the armed forces under the Selective Service Act of 1948. This section shall not apply with respect to any person who, after June 24, 1948, or after the date of enactment of this act, shall voluntarily have extended the term of his service.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I make a point of order against the amendment on the ground that it is legislation on an appropriation bill. . . .

THE CHAIRMAN:<sup>(10)</sup> the Chair is ready to rule.

An examination of the amendment offered by the gentleman from Pennsylvania indicates that it is in the nature of a limitation on the appropriation.

The point of order is overruled.

### ***Compulsory College Military Training***

**§ 70.3 An amendment to a general appropriation bill providing that none of the funds therein appropriated shall be used toward the support of any compulsory military course or training in any civil school or college was**

10. Eugene J. Keogh (N.Y.).

**held to be a proper limitation restricting the availability of funds and in order.**

On Apr. 30, 1937,<sup>(11)</sup> the Committee of the Whole was considering H.R. 6692, a War Department appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

#### CITIZENS' MILITARY TRAINING

##### RESERVE OFFICERS' TRAINING CORPS

For the procurement, maintenance, and issue, under such regulations as may be prescribed by the Secretary of War, to institutions at which one or more units of the Reserve Officers' Training Corps are maintained, of such public animals, means of transportation, supplies, tentage, equipment, and uniforms as he may deem necessary, including cleaning and laundering of uniforms and clothing at camps; and to forage, at the expense of the United States, public animals so issued, and to pay commutation in lieu of uniforms at a rate to be fixed annually by the Secretary. . . .

MR. [FRED] BIERMANN [of Iowa]: Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. Biermann: On page 62, line 7, before the period, insert "*Provided further*, That none of the funds appropriated in this act shall be used for or toward the support of any compulsory military course or military training in any civil school or college, or for

11. 81 CONG. REC. 4070, 75th Cong. 1st Sess.

the pay of any officer, enlisted man, or employee at any civil school or college where a military course or military training is compulsory, but nothing herein shall be construed as applying to essentially military schools or colleges." . . .

MR. [JOHN] TABER [of New York]: I make the point of order that it is legislation. . . .

MR. BIERMANN: May I call the attention of the Chairman to the fact this identical amendment was ruled on a year ago?

THE CHAIRMAN:<sup>(12)</sup> If the Chair were in doubt; the Chair would welcome the gentleman's contribution.

This matter has been passed upon before.<sup>(13)</sup> the amendment is clearly a limitation, and the Chair, therefore, overrules the point of order.

### *Army Social Centers—Intoxicants*

**§ 70.4 To a paragraph making appropriations for the welfare of enlisted men of the Army, an amendment providing that "no part of the funds appropriated under this head shall be available for expenditure for the operation and maintenance of facilities where intoxicating beverages are sold or dispensed" was held to be a proper limitation restricting the availability of funds and in order.**

12. John W. McCormack (Mass.).

13. See 7 Cannon's Precedents § 1694.

On Sept. 26, 1940,<sup>(14)</sup> the Committee of the Whole was considering H.R. 10572, a supplemental national defense appropriation. A point of order against an amendment was overruled as follows:

For welfare of enlisted men, \$2,572,594.

MR. [ULYSSES S.] GUYER of Kansas: Mr. Chairman, I offer an amendment which is at the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. Guyer of Kansas: Page 2, line 25, after the heading of "Welfare, enlisted men", strike out the period, insert a colon and the proviso, "Provided, That no part of the funds appropriated under this head shall be available for expenditure for the operation and maintenance of facilities where intoxicating beverages are sold or dispensed."

MR. [THOMAS C.] HENNINGS [Jr., of Missouri]: Mr. Chairman, I make a point of order that the amendment is not in order.

MR. GUYER of Kansas: Mr. Chairman, it is a limitation upon an appropriation. . . .

THE CHAIRMAN:<sup>(15)</sup> The Chair is prepared to rule. The Chair feels that as the bill under consideration is a general appropriation bill, appropriating among other things funds for the personnel of the Army, the amendment offered by the gentleman from Kansas (Mr. Guyer) is a proper limitation upon the use of the money and therefore in

14. 86 CONG. REC. 12697, 76th Cong. 3d Sess.

15. Joseph A. Gavagan (N.Y.).

order. The Chair overrules the gentleman's point of order.

### ***Air Force Academy Construction***

#### **§ 70.5 To an appropriation bill, an amendment providing that no part of the funds therein shall be used for construction of the Air Force Academy chapel was held to be a limitation and in order.**

On Aug. 6, 1957,<sup>(16)</sup> the Committee of the Whole was considering H.R. 9131, a supplemental appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. [Errett P.] Scrivner [of Kansas]: On page 6, line 14, strike out the period, insert a semicolon and the following: "*Provided*, That no part hereof shall be applied to the construction of the Air Force Academy chapel."

MR. [FRANK] THOMPSON [Jr.] of New Jersey: Mr. Chairman, a point of order.

THE CHAIRMAN:<sup>(17)</sup> the gentleman will state it.

MR. THOMPSON of New Jersey: Mr. Chairman, I make the point of order that the amendment offered by the gentleman from Kansas [Mr. Scrivner] is not in order since it is legislation on an appropriation bill.

MR. SCRIVNER: Mr. Chairman, this is a limitation on the expenditure of

16. 103 CONG. REC. 13788, 85th Cong. 1st Sess.

17. Paul J. Kilday (Tex.).

funds, therefore the amendment I have offered is in order.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from New Jersey [Mr. Thompson] makes the point of order that the amendment offered by the gentleman from Kansas constitutes legislation on an appropriation bill. The proviso offered by the gentleman from Kansas is a limitation upon the purpose for which the funds appropriated may be used therefore is not legislation. The point of order is overruled.

### ***Monitoring Workers' Efficiency***

#### **§ 70.6 Language in the military establishment appropriation bill providing that no part of the appropriation made in the act would be available for the salary of any officer having charge of any employee while making (with a stop watch or other measuring device) a time study of any job or the movements of any employee was held to be a proper limitation on an appropriation bill and in order.**

On June 21, 1946,<sup>(18)</sup> during consideration in the Committee of the Whole of the military establishment appropriation bill (H.R. 6837), the following point of order was raised:

Mr. [ELLSWORTH B.] BUCK [of New York]: Mr. Chairman, I make the point

18. 92 CONG. REC. 7354, 79th Cong. 2d Sess.

of order against section 2 on page 5, which is plainly legislation on an appropriation bill. . . .<sup>(19)</sup>

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

THE CHAIRMAN:<sup>(20)</sup> The Chair will hear the gentleman from New York.

MR. BUCK: Mr. Chairman, the whole point of the section is to discourage a supervisory employee from putting into effect efficient operation. Further, it is entirely contradictory to the provision in section 16, on pages 64 and 65, whereby efficiency is to be increased. The two just do not go together.

THE CHAIRMAN: On March 28, 1924, the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union when the Clerk read a paragraph similar to this, which was held to be a limitation rather than legislation. Therefore, the point of order is overruled.

19. Section 2 provided: "No part of the appropriations made in this Act shall be available for the salary or pay of any officer, manager, superintendent, foreman, or other person having charge of the work of any employee of the United States Government while making or causing to be made with a stop watch, or other time-measuring device, a time study of any job of any such employee between the starting and completion thereof, or of the movements of any such employee while engaged upon such work; nor shall any part of the appropriations made in this Act be available to pay any premiums or bonus or cash reward to any employee in addition to his regular wages, except as may be otherwise authorized in this Act."

20. R. Ewing Thomason (Tex.).

### ***Lighter-than-air Craft Prohibited***

#### **§ 70.7 Language in a general appropriation bill providing that "no appropriation contained in this act shall be expended upon lighter-than-air craft" was held to be a proper limitation and in order.**

On Apr. 30, 1937,<sup>(1)</sup> the Committee of the Whole was considering H.R. 6692, a War Department appropriation bill. At one point the Clerk read as follows:

AIR CORPS

AIR CORPS, ARMY

For creating, maintaining, and operating at established flying schools and balloon schools courses of instruction for officers, students, and enlisted men, including cost of equipment and supplies . . . *Provided further*, That no available appropriation shall be used upon lighter-than-air craft, other than balloons, not in condition for safe operation on June 30, 1937, or that may become in such condition prior to July 1, 1938. . . .

MR. [DOW W.] HARTER [of New York]: Mr. Chairman, I make a point of order against the language on page 37, beginning in line 22, all of lines 23 and 24, and that part of line 1 on page 38 ending with the semicolon after the figures "1938."

MR. [J. BUELL] SNYDER of Pennsylvania: Mr. Chairman, I concede the

1. 81 CONG. REC. 4060-68, 75th Cong. 1st Sess.

point of order. We will offer an amendment later on.

THE CHAIRMAN:<sup>(2)</sup> The point of order is sustained. . . .

MR. SNYDER of Pennsylvania: Mr. Chairman, I offer a committee amendment.

The Clerk read as follows:

Committee amendment offered by Mr. Snyder of Pennsylvania: On page 37, after line 21, insert the following: "*Provided further*, That no appropriation contained in this act shall be expended upon lighter-than-air craft, other than balloons, not in condition for safe operation on July 1, 1937, or that may become in such condition prior to July 1, 1938."

MR. HARTER: Mr. Chairman, a point of order. That is purely legislation and not proper on an appropriation bill. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The amendment as drawn is different from the proviso that was contained in the bill as reported by the committee. The proviso contained in the bill as reported by the committee related to all existing appropriations. It was not confined to the present bill. The amendment offered by the committee confines itself to the present bill, and, in the opinion of the Chair, is clearly a limitation. For this reason the point of order is overruled.

### ***Work in Navy Shipyards***

#### **§ 70.8 An amendment to a Defense Department appropriation bill providing that not more than a certain amount**

2. John W. McCormack (Mass.).

**of funds therein for alteration, overhaul, and repair of naval vessels shall be available for such work in Navy shipyards was held in order as a limitation on the use of funds in the bill.**

On Sept. 14, 1972,<sup>(3)</sup> during consideration in the Committee of the Whole of the Defense Department appropriation bill (H.R. 16593), a point of order was raised against the following amendment:

Amendment offered by Mr. [Glenn R.] Davis of Wisconsin: Page 51, line 21, insert a new section 743 as follows:

"Of the funds made available by this Act for the alteration, overhaul, and repair of naval vessels, not more than \$646,704,000 shall be available for the performance of such works in Navy shipyards." . . .

MR. [LOUIS C.] WYMAN [of New Hampshire]: I make the point of order that the amendment proposed by the gentleman from Wisconsin in the form in which it is presently worded does not constitute a limitation, but is rather legislation upon an appropriations bill contrary to the rules of the House.

THE CHAIRMAN:<sup>(4)</sup> Does the gentleman from Wisconsin care to be heard on the point of order?

MR. DAVIS OF WISCONSIN: I do, Mr. Chairman. I submit to the Chair that this is definitely a limitation on the amount of money which may be spent for a specific purpose. I would suggest

3. 118 CONG. REC. 30749, 30750, 92d Cong. 2d Sess.

4. Daniel D. Rostenkowski (Ill.).

to the Chair that it is clearly within the rules of the House as a limitation on an appropriations bill.

THE CHAIRMAN: The Chair has examined the amendment and feels that it is a valid limitation on the funds made available in the bill and overrules the point of order.

## § 71.—Military Contracts

### *Conventional Powerplant for Ship*

**§ 71.1 To a bill appropriating funds for defense procurement, an amendment providing that none of the funds therein shall be available for paying the cost of a conventional powerplant for a designated ship was held to be a proper limitation and in order even though it was apparent that there were no funds in the bill for the ship in question.**

On Apr. 22, 1964,<sup>(5)</sup> the Committee of the Whole was considering H.R. 10939, a Department of Defense appropriation bill. A point of order against an amendment was overruled as follows:

Amendment offered by Mr. [Craig] Hosmer [of California]: On page 42, line 18, after line 18 insert a new sec-

5. 110 CONG. REC. 8802, 88th Cong. 2d Sess.

tion 540—and renumber the following sections—to read as follows:

“None of the funds appropriated herein shall be available for paying the cost of a conventional powerplant for CVA-67.”

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I make the point of order that there are no funds in this bill for an aircraft carrier.

THE CHAIRMAN:<sup>(6)</sup> Does the gentleman desire to be heard on the point of order?

MR. HOSMER: Yes, I do.

THE CHAIRMAN: The Chair will be pleased to hear him.

MR. HOSMER: My point is, It is irrelevant whether or not there are any funds in this bill. An amendment of this nature will lie irrespective.

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

. . . Apparently the only basis for that point of order is that there are no funds in the pending bill to accomplish that which is sought to be accomplished by the amendment. As futile, therefore, as the amendment might be, it is in fact a limitation of the funds herein appropriated and the Chair therefore overrules the point of order.

### *Retired Military Officers Employed by Defense Contractors; Incidental Duties Imposed on Officials*

**§ 71.2 Where the manifest intent of a proposed amendment is to impose a negative limitation on the use of funds**

6. Eugene J. Keogh (N.Y.).