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§ 15. Environment and Interior

Environmental Protection Agency

§ 15.1 A paragraph in a general appropriation bill containing funds to enable the Administrator of the Environmental Protection Agency to obtain reports as to the probable adverse effect on the economy of certain federal environmental actions, and reappropriating funds generally available to the Administrator for the preparation of such reports, was conceded to be unauthorized by law and was ruled out on a point of order.

On June 23, 1971,[1] during consideration in the Committee of the Whole of a general appropriation bill (H.R. 9270), a point of order was raised against the following provision:

> The Clerk read as follows:
>
> The sum of $6,300,000, together with such additional funds as may be necessary to be derived from general administrative funds available to the Administrator, is appropriated to enable the Administrator to obtain, except where there is determined to be an imminent hazard to human life, in advance of determination of action to be taken or recommended from those agencies of Government or other entities, governmental or private, which are required to file reports on major Federal actions determined to have a significant effect on the quality of the human environment, reports as to the probable adverse effect on the economy, including employment and unemployment, if such action is taken and the project or proposed action is delayed or terminated. And, if necessary, the Administrator is authorized to reimburse the affected agency of Government or other entities for the reasonable costs of preparing such reports, if additional work is required.[2]

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I rise for the purpose of making a point of order with regard to the language appearing on page 28, lines 8 through 24, of the bill, which constitutes, in my opinion, and also in the language in the report, legislation on an appropriation bill and therefore is violative of the rules of the House.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I would like to be heard on the point of order and say, if I may, the committee agrees as to the point of order on the bill. Of course, we do not agree as to the point of order in the report. We wrote this in the report and, if I may pursue this a little further, we were asked to appropriate all of this money through the agency without any safeguard being written around how it would be handled. We did not ask for a rule on it, but until the gentleman in the well

1. 117 CONG. REC. 21641, 92d Cong. 1st Sess.

2. The whole paragraph was conceded to be subject to a point of order. See H. Rept. No. 92–289.

and others who are responsible, on very fine legislative committees, get around to writing some kind of a restriction or a guideline for this environmental protection agency and for the administrator, we are in a bad way, in my opinion, unless we have this language in here. It was for that reason that we wrote it in here trying to hold the line until the legislative committees could act. We readily concede that it is subject to a point of order, and if the gentleman or others insist on knocking it out, all they have to do is make the point of order. . . .

THE CHAIRMAN:[3] The gentleman from Mississippi (Mr. Whitten), concedes the point of order to the language appearing between lines 8 and 24 on page 28 of the bill on the ground that it does provide funds for carrying out a function not previously authorized by enabling legislation Therefore it does constitute legislation on an appropriation bill, and the Chair sustains the point of order.

Federal Funds for Outside Review Board

§ 15.2 A paragraph in a general appropriation bill making funds available to the Administrator of the Environmental Protection Agency to establish an independent grant and contract review board to review the priorities of the agency and its award of contracts was conceded to be subject to a point of order and was ruled out as unauthorized by law.

On June 23, 1971,[4] during consideration in the Committee of the Whole of a general appropriation bill (H.R. 9270), a point of order was raised against the following provision:

The Clerk read as follows:

The sum of $2,500,000, together with such additional funds as may be necessary to be derived from general administrative funds available to the Administrator, is appropriated to provide for an independent grant and contract review board made up of qualified persons selected to review the agency's priorities and to assume that such contracts and grants are awarded only to qualified research agencies or individuals consistent with national economic and environmental needs.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make the same point of order on which the Chair has just ruled, namely, that the language beginning on page 28 at line 25 and continuing through line 8 on page 29 again constitutes legislation in an appropriation bill, and so is violative of the rules. Again I renew my point of order in that this appropriation has not been previously authorized.

THE CHAIRMAN:[5] Does the gentleman from Mississippi desire to be heard on the point of order?

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, the committee takes the same view and concedes the point of order.

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

4. 117 CONG. REC. 21641, 21642, 92d Cong. 1st Sess.

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

THE CHAIRMAN: The gentleman from Mississippi concedes the point of order, so the point of order is sustained.

River and Harbor Projects; Lump Sum

§ 15.3 A point of order was held not to lie against a lump-sum appropriation for river and harbor projects on the ground that some of the projects enumerated in the committee report for allocation of funds had not been authorized, since language in the bill limited use of the appropriation to "projects authorized by law."

On June 18, 1958,[6] the Committee of the Whole was considering H.R. 12858. At one point the Clerk read as follows, and proceedings ensued as indicated below:

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by law; detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction); and not to exceed $1,600,000 for transfer to the Secretary of the Interior for conservation of fish and wildlife as authorized by law; to remain available until expended $577,085,500. . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN:[7] The gentleman will state it.

MR. TABER: Mr. Chairman, I make a point of order against the paragraph.

THE CHAIRMAN: The gentleman will state the paragraph.

MR. TABER: The paragraph beginning page 3, line 22 and ending on page 5, line 9, on the ground it contains funds the appropriation which has not been authorized by law. The figure there is $577,085,500. I am advised by the Corps of Engineers, by letter dated June 11, 1958, that there is contained here $57,702,253 in projects which are not authorized by law. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The language is very specific. As the chairman of the Committee on Appropriations pointed out a moment ago, beginning on line 23, page 3, the language is as follows:

> For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by law.

Then further, as again pointed out by the chairman, there is this language on the bottom of page 4:

> That no part of this appropriation shall be used for projects not authorized by law.

Now, that language, in the opinion of the Chair, is quite specific in that none

6. 104 CONG. REC. 11646, 85th Cong. 2d Sess.

7. Hale Boggs (La.).

of these funds, regardless of the amount involved, can be used for any project which is not authorized by law.

The Chair overrules the point of order.

§ 15.4 To an appropriation bill providing a lump sum for construction of river and harbor projects authorized by law, an amendment to allocate part of the lump-sum appropriation to three projects not authorized by law (although provided for in an authorization bill which had passed the House) was ruled out of order.

On June 19, 1958,[8] the Committee of the Whole was considering H.R. 12858, a bill making appropriations for civil functions administered by the Department of the Army and certain agencies of the Department of the Interior. During consideration, a point of order was raised and sustained against an amendment, as follows:

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by law . . . $577,085,500. . . .

MR. [FRANK J.] BECKER [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Becker: Page 4, line 8, immediately preceding the colon, insert the following: "of which $1,370,000, shall be used to initiate (1) the Fire Island Inlet beach erosion project, in accordance with the recommendations of the Chief of Engineers contained in House Document No. 411, 84th Congress; (2) the Irondequoit Bay dredging and beach erosion project in accordance with the recommendations of the Chief of Engineers contained in House Document No. 332, 84th Congress; and (3) the Eel River, Calif., flood control project in accordance with recommendations of the Chief of Engineers contained in House Document No. 80, 85th Congress." . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the amendment on the ground that it is legislation on an appropriation bill and is not authorized by law.

THE CHAIRMAN:[9] Will the gentleman from New York [Mr. Becker], as author of the amendment, cite the authority wherein these projects are authorized by law?

MR. BECKER: Mr. Chairman, these projects are not authorized by law any more than the question which was raised yesterday on the point of order on the previous projects and surveys. These are authorized in the bill that was passed yesterday, the omnibus public works bill. Therefore, I know it is not signed into law, but it was passed by the House yesterday and this method is being used to try to expedite the work and get the projects done.

THE CHAIRMAN: The gentleman has pointed out that these projects are in-

8. 104 CONG. REC. 11646, 11763, 11764, 85th Cong. 2d Sess.

9. Wilbur D. Mills (Ark.).

cluded in the bill which passed the House on yesterday, but as the gentleman knows that bill has not yet become law. These projects, therefore, do not meet the requirements of eligibility and the Chair must, therefore, under the rules sustain the point of order made by the gentleman from New York [Mr. Taber].

Protection of Deer; Leasing of Land For

§ 15.5 A provision of law giving general authorization for wildlife conservation activities was held not to authorize earmarking part of an appropriation to be expressly "for the leasing and management of the lands for the protection of the Florida Key deer."

On Apr. 28, 1953,[10] the Committee of the Whole was considering H.R. 4828, an Interior Department appropriation. A point of order was raised against the following amendment:

Amendment offered by Mr. Lantaff: On page 20, line 6, immediately following the semicolon and preceding the word "and", insert the following: "not to exceed $10,000 for the leasing and management of the lands for the protection of the Florida Key deer, 16 U.S.C. 661."

MR. [JOHN] TABER [of New York]: Mr. Chairman, I hate to do it, but I must make a point of order against this amendment. It is not authorized by law.

THE CHAIRMAN:[11] Does the gentleman from Florida desire to be heard on the point of order?

MR. [WILLIAM C.] LANTAFF [of Florida]: Yes, Mr. Chairman. The reference to the United States Code authorizes the leasing of lands by the Department of Interior and is so cited for that purpose This specific authorization is to authorize the leasing of land in this particular area for this particular project and classifies it much the same as the authorization contained in the bill for the Wichita Mountains Wildlife Refuge and for the Crab Orchard National Wildlife Refuge. In the bill you will find the statutory authority cited the same as the statutory authority cited in the amendment which I have offered. . . .

THE CHAIRMAN: The Chair is ready to rule.

The Chair has inspected section 661 of title 16 of the United States Code, the provision which the gentleman from Florida cites as authorizing the proposal contained in his amendment. That code section gives fairly broad authorization to the Fish and Wildlife Service for wildlife conservation, but it does not authorize leasing of lands or the protection of key deer. The gentleman's amendment would earmark funds for a narrow, specific purpose, a purpose not mentioned in the code section which is general. Reference is made to volume VII, section 1452, of Cannon's Precedents, under which the Chair sustains the point of order.

Parliamentarian's Note: Where the authorizing law confers discre-

10. 99 CONG. REC. 4148, 83d Cong. 1st Sess.

11. J. Harry McGregor (Ohio).

tion on an executive in allotting funds, authorization for a general appropriation is not to be construed as authorizing an appropriation for a specific purpose. 7 Cannon's Precedents § 1452 states that, while the appropriation of a lump sum for a general purpose authorized by law is in order, a specific appropriation for a particular item included in such general purpose is a limitation on the discretion of the executive charged with allotment of the lump sum and is not in order on an appropriation bill.

New Function of Government Created by Executive Order

§ 15.6 An appropriation for the Division of Geography in the Department of the Interior, for the performance of duties imposed by Executive order with respect to uniform usage in orthography throughout the federal government was conceded and held not to be authorized by law.

On May 10, 1946,[12] the Committee of the Whole was considering H.R. 6335, an Interior Department appropriation. A point of order was raised against the following paragraph in the bill:

> DIVISION OF GEOGRAPHY
>
> Salaries and expenses: For all necessary expenses of the Division of Geography, in performing the duties imposed upon the Secretary by Executive Order 6680, dated April 17, 1934, relating to uniform usage in regard to geographic nomenclature and orthography throughout the Federal Government, including personal services in the District of Columbia, stationery and office supplies, and printing and binding, $12,956.
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> MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. Chairman, a point of order.
>
> THE CHAIRMAN:[13] The gentleman will state it.
>
> MR. DIRKSEN: I make a point of order against the language appearing in lines 3 to 11 on page 3, on the ground that there is no authority of law for the inclusion of this item. . . .
>
> MR. [JED] JOHNSON of Oklahoma: Mr. Chairman, as much as it deeply pains me to do so, I must concede the point of order.
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> THE CHAIRMAN: The gentleman from Illinois makes a point of order, which is conceded by the gentleman from Oklahoma. The point of order is sustained.

Appropriation for Presidential Committee

§ 15.7 Appropriations for the National Power Policy Committee to be used by the com-

12. 92 CONG. REC. 4828, 79th Cong. 2d Sess.

13. Jere Cooper (Tenn.)

mittee in the performance of functions prescribed by the President, were conceded not to be authorized by law.

On Mar. 25, 1942,[14] the Committee of the Whole was considering H.R. 6845, an Interior Department appropriation. At one point a point of order was raised against a portion of the following paragraph:

> Salaries: For the Secretary of the Interior, Under Secretary, First Assistant Secretary, Assistant Secretary, and other personal services in the District of Columbia, including a special assistant to the Secretary of the Interior to be appointed without reference to civil-service requirements, at a salary of not to exceed $5,000, and including $28,520 for the National Power Policy Committee, to be used by said committee in the performance of the functions prescribed for it by the President of the United States, $1,027,170: *Provided*, That no part of the appropriation made available to the office of the Secretary by this section shall be used for the broadcast of radio programs designed for or calculated to influence the passage or defeat of any legislation pending before the Congress.
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> MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the words beginning in line 8, on page 74, with the word "and" and including the following words which I shall read—
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> and including $28,520 for the National Power Policy Committee, to be used by said committee in the performance of the functions prescribed for it by the President of the United States—
>
> on the ground that this is not authorized by law, that it is legislation on an appropriation bill, and that there is no authority anywhere for this appropriation to the National Power Policy Committee.
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> MR. [JED] JOHNSON of Oklahoma: Mr. Chairman, the words to which the gentleman refers are conceded by the committee to be subject to a point of order. . . .
>
> THE CHAIRMAN:[15] The gentleman from New York makes a point of order against certain language quoted by him. The point of order is conceded by the chairman in charge of the bill, and therefore the point of order is sustained.

Storage Buildings; Limitation on Funds for Unauthorized Project

§ 15.8 An appropriation for the construction of buildings for storage of equipment used for forest roads and trail construction and including a stated limit of cost for construction of any such building was held unauthorized by law and to be legislation establishing a total cost of construction.

On Mar. 28, 1939,[16] the Committee of the Whole was consid-

14. 88 CONG. REC. 2926, 77th Cong. 2d Sess.

15. Jere Cooper (Tenn.)

16. 84 CONG. REC. 3458, 76th Cong. 1st Sess.

ering H.R. 5269, an Agriculture Department appropriation. At one point the Clerk read as follows, and proceedings ensued as indicated below:

FOREST ROADS AND TRAILS

For carrying out the provisions of section 23 of the Federal Highway Act approved November 9, 1921 (23 U.S.C. 23), including not to exceed $59,500 for departmental personal services in the District of Columbia, $10,000,000, which sum consists of the balance of the amount authorized to be appropriated for the fiscal year 1939 by the act approved June 16, 1936 (Stat. 1520), and $3,000,000 of the amount authorized to be appropriated for the fiscal year 1940 by the act approved June 8, 1938 (52 Stat 635), to be immediately available and to remain available until expended: *Provided*, That this appropriation shall be available for the rental, purchase, or construction of buildings necessary for the storage of equipment and supplies used for road and trail construction and maintenance, but the total cost of any such building purchased or constructed under this authorization shall not exceed $7,500.[17]

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the paragraph that this is legislation on an appropriation bill providing for the construction of a building at a limit beyond that authorized by law.

THE CHAIRMAN:[18] Does the gentleman make the point of order against the proviso or against the entire paragraph?

MR. TABER: Against the paragraph.

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

MR. [CLARENCE] CANNON of Missouri: I may say, Mr. Chairman, that this provision in the bill is the only limiting authority. If the gentleman can cite us to some other authority establishing the limitation, I should be pleased to have the citation. There is no other limitation, Mr. Chairman, and the point of order is not well taken.

MR. TABER: There is no authorization for it at all.

THE CHAIRMAN: The point of order is sustained.

Authority to Make Payroll Deductions

§ 15.9 Language in a general appropriation bill providing that the Secretary of the Interior, in his administration of the Bureau of Reclamation, is authorized to contract for medical services for employees and to make necessary payroll deductions agreed to by the employees, was held unauthorized by law.

The provision and the ruling thereon by the Chairman are discussed in the following section.[19]

17. The latter provision could be considered an interference with executive discretion, therefore legislation.

18. Wright Patman (Tex.).

19. § 15.10, infra.

Authority to Settle Claims

§ 15.10 Language in a general appropriation bill providing in part an appropriation for payment of damages caused to the owners of lands by reason of the operations of the United States in the construction of irrigation works which may be "compromised by agreement between the claimants and the Secretary of the Interior, or such officers as he may designate," was held to constitute legislation.

On Mar. 1, 1938,[20]) the Committee of the Whole was considering H.R. 9621, an Interior Department appropriation. At one point points of order were directed to portions of the following paragraph:

> Administrative provisions and limitations: For all expenditures authorized by the act of June 17, 1902, and acts amendatory thereof or supplementary thereto, known as the reclamation law, and all other acts under which expenditures from said fund are authorized, including . . . payment of damages caused to the owners of lands or other private property of any kind by reason of the operations of the United States, its officers or employees, in the survey, construction, operation, or maintenance of irrigation works, and which may be compromised by agreement between claimant and the Secretary of the Interior, or such officers as he may designate . . . *Provided,* That the Secretary of the Interior in his administration of the Bureau of Reclamation is authorized to contract for medical attention and service for employees and to make necessary pay-roll deductions agreed to by the employees therefor. . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the paragraph that it is legislation on an appropriation bill and contains items not authorized by law.

I call the attention of the Chair to the language on page 72, line 22, "examination of estimates for appropriations in the field," and at the bottom of the page, "for lithographing, engraving, printing, and binding," and in line 20 of the same page, "for photographing and making photographic prints," and then at the top of page 73, "purchase of rubber boots for official use by employees," and in the middle of the page, at line 12, "and which may be compromised by agreement between the claimant and the Secretary of the Interior or such officers as he may designate," giving him authority to do things that the law does not authorize. . . .

THE CHAIRMAN:[1] The Chair is of opinion that the paragraph is subject to the point of order for two reasons. First, page 73, line 12, after the word "works", the language—

> and which may be compromised by agreement between the claimant and the Secretary of the Interior, or such officers as he may designate.

20. 83 CONG. REC. 2655, 75th Cong. 3d Sess.

1. Marvin Jones (Tex.)

Then, going down to the last line on page 73, after the colon, the language:

> *Provided*, That the Secretary of the Interior in his administration of the Bureau of Reclamation is authorized to contract for medical attention and services for employees and to make necessary pay-roll deductions agreed to by the employees therefor.

For these reasons the Chair sustains the point of order.

Division of Grazing; Travel and Per Diem

§ 15.11 Language in a general appropriation bill providing payment of a salary of $5 per diem and necessary travel expenses of members of advisory committees of local stockmen under the Division of Grazing in the Department of the Interior, was held unauthorized by law.

On Feb. 28, 1938,[2] the Committee of the Whole was considering H.R. 9621, an Interior Department appropriation, when the following paragraph was read:

DIVISION OF GRAZING

> For carrying out the provisions of the act entitled "An act to stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement, and development, to stabilize the livestock industry dependent upon the public range, and for other purposes," . . . not to exceed $1,000 for expenses of attendance at meetings concerned with the work of the Division of Grazing when authorized by the Secretary of the Interior, $550,000; (for payment of a salary of $5 per diem while actually employed and for the payment of necessary travel expenses, exclusive of subsistence, of members of advisory committees of local stockmen, $100,000); in all, $650,000.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the language beginning with the word "for" [following the figure of $550,000] down to the dollar sign "$100,000", in line 12, on the ground it is not authorized by law.

MR. [JED] JOHNSON [of Oklahoma]: Mr. Chairman, we admit this is legislation, but it is extremely desirable and I hope the gentleman will not press the point of order.

MR. TABER: Mr. Chairman, the appropriation for this item is all out of line with the justification given at the hearings and, frankly, I shall have to insist on my point of order.

THE CHAIRMAN:[3] The Chair is ready to rule.

The gentleman from New York [Mr. Taber] makes a point of order against the language beginning with the word "for", line 8, page 5, and continuing down to and including the word "$650,000", in line 12 of the same page.

This being in the form of legislation it is clearly subject to the point of order, and the Chair therefore sustains the point of order.

2. 83 CONG. REC. 2548, 75th Cong. 3d Sess.

3. Marvin Jones (Tex.)

Fund for Emergencies of Confidential Character

§ 15.12 Language in a general appropriation bill providing for an appropriation for the Division of Investigations in the Department of the Interior, to be expended under the direction of the Secretary of the Interior to meet unforeseen emergencies of a confidential character was held unauthorized by law.

On Feb. 28, 1938,[4] the Committee of the Whole was considering H.R. 9621, an Interior Department appropriation. A point of order was sustained against the following paragraph because of language included therein:

> For investigating official matters under the control of the Department of the Interior; for protecting timber on the public lands, and for the more efficient execution of the law and rules relating to the cutting thereof; for protecting public lands from illegal and fraudulent entry or appropriation; for adjusting claims for swamplands and indemnity for swamplands; and for traveling expenses of agents and others employed hereunder, $440,000, including not exceeding $34,000 for personal services in the District of Columbia; not exceeding $38,000 for the purchase, exchange, operation, and maintenance of motor-propelled passenger-carrying vehicles and motorboats for the use of agents and others employed in the field service; [and not to exceed $5,000 to meet unforeseen emergencies of a confidential character,] to be expended under the direction of the Secretary of the Interior, who shall make a certificate of the amount of such expenditure as he may think is advisable not to specify, and every such certificate shall be deemed a sufficient voucher for the sum therein expressed to have been expended.
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> MR. [ROBERT L.] BACON [of New York]: Mr. Chairman, I make the point of order against the paragraph, because it sets up a new division of investigation for which there is no authority of law. This division of investigation was originally created as an emergency in connection with the work of the Public Works program. They now seek to continue it as a permanent proposition, although the Public Works program is on its way out, and no new contracts are being let. This is an entirely new provision for which there is no authority of law, and it is clearly legislation on an appropriation bill. . . .
>
> THE CHAIRMAN:[5] The Chair is ready to rule. The provision on page 4, lines 5 and 6, which provides that not to exceed $5,000 to meet unforeseen emergencies of a confidential character may be expended, is clearly not authorized by existing law. The Chair sustains the point of order to the paragraph, without considering the other points.

Timber Protection

§ 15.13 An appropriation for a Division of Investigations,

4. 83 CONG. REC. 2545, 75th Cong. 3d Sess.

5. Marvin Jones (Tex.).

for protecting timber on public lands, was held authorized under existing law.

On Feb. 28, 1938,[6] the Committee of the Whole was considering H.R. 9621, an Interior Department appropriation. A point of order was raised against the following amendment:

DIVISION OF INVESTIGATIONS

For protecting timber on the public lands, and for the more efficient execution of the law and rules relating to the cutting thereof; for protecting public lands from illegal and fraudulent entry or appropriation; for adjusting claims for swamplands and indemnity for swamplands; and for traveling expenses of agents and others employed hereunder, $440,000, including not exceeding $34,000 for personal services in the District of Columbia; not exceeding $38,000 for the purchase, exchange, operation, and maintenance of motor-propelled passenger-carrying vehicles and motorboats for the use of agents and others employed in the field service.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the paragraph. There is no authority of law for a division of investigating. Some of the things that are specified there may be authorized, but a division of investigation is not authorized.

MR. [JED] JOHNSON of Oklahoma: Mr. Chairman, this is merely the name of the organization which is carrying on this work, which is clearly authorized by title XVI, chapter 4, United States Code, and certainly is not subject to the point of order.

THE CHAIRMAN:[7] The Chair is ready to rule. The language embodied in the amendment proper is clearly authorized by existing law for protecting timber, and so forth. It seems clear that incidental to such authority the power to conduct the investigation in the handling of that and to properly handle it, would be entirely in order. The Chair overrules the point of order.

Virgin Islands Deficits

§ 15.14 An appropriation for defraying the deficits in the treasuries of the municipal governments of the St. Thomas and St. John Islands was held not to be authorized by law.

On May 20, 1937,[8] the Committee of the Whole was considering H.R. 6958, an Interior Department appropriation. A point of order was sustained against the following paragraph for the reasons stated:

For defraying the deficits in the treasuries of the municipal governments because of the excess of current expenses over current revenues for the fiscal year 1938, municipality of St. Thomas and St. John, $60,000, and municipality of St. Croix, $50,000; in

6. 83 CONG. REC. 2545, 75th Cong. 3d Sess.

7. Marvin Jones (Tex.).

8. 81 CONG. REC. 4873, 75th Cong. 1st Sess.

all, $110,000, to be paid to the said treasuries in monthly installments.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Chairman, I reserve the point of order on lines 9 to 14, page 126, to ask some questions of the chairman of the committee. What provision of law is there providing that we should pay the deficits of the municipalities of the Virgin Islands, as carried in lines 9 to 14?

Mr. [JED] JOHNSON of Oklahoma: I will say to the gentleman that the authority for the administration of the Virgin Islands is to be found in title 48, section 1391, United States Code. Although there is no specific provision of law providing for the payment of deficits of a municipality, the committee felt that the law is sufficiently broad to grant authority for this purpose. . . .

Mr. Chairman, I read from section 1391:

> Under jurisdiction of the Governor; except as provided in this chapter, all military, civil, and judicial powers of the United States to govern the West India Islands acquired from Denmark, shall be vested in the Governor and in such person or persons as the President shall direct. The Congress shall provide for the government of said islands; provided that the President may assign an officer of the Army or the Navy to serve as such Governor—

And so forth. This is the section that the Budget referred the committee to, and it will be noted that the authority is general but broad in its scope.

MR. SNELL: I do not see anything in there that says that the Federal Government is responsible for all municipal deficits.

MR. JOHNSON of Oklahoma: Nor do I see the specific authority, but I will say to the gentleman that this item has been carried in the bill year after year and no one has ever raised the question as to the authority heretofore. Undoubtedly it was the intent of Congress to confer that authority. . . .

THE CHAIRMAN:[9] The Chair is prepared to rule.

The gentleman from New York [Mr. Snell] makes a point of order against the paragraph appearing in lines 9 to 14, inclusive, on page 126 of the bill on the ground that the appropriation there sought to be made is not authorized by existing law.

The Chair has examined section 1391 of title 48 of the United States Code, to which reference was made by the gentleman from Oklahoma [Mr. Johnson]. It appears to the Chair that this provision of law authorizes the establishment of a government for the West Indies Islands, acquired from Denmark, and vests certain discretionary authority in the President until the Congress shall provide for the government of said islands. The Chair is unable to find any definite, specific provision of law included in this section which, in the opinion of the Chair, would authorize the appropriation here sought to be made.

The Chair has likewise examined the act of Congress approved June 22, 1936, to provide a civil government for the Virgin Islands of the United States, and in neither the provision of law cited by the gentleman from Oklahoma nor the act to which the Chair has referred does the Chair find sufficient authority of law to authorize appropriations for municipal deficits in the municipalities set out in this provision of the bill.

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9. Jere Cooper (Tenn.).

The Chair is of the opinion that the appropriation is not authorized by existing law, as it is here sought to be made, and therefore sustains the point of order.

Streets Adjacent to National Park

§ 15.15 A proposition to resurface city streets adjacent to Hot Springs National Park was held to be without authority of law.

On May 14, 1941,[10] the Committee of the Whole was considering H.R. 4590, an Interior Department appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

Hot Springs National Park, Ark.: For administration, protection, maintenance, and improvement, including not exceeding $1,400 for the purchase, maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, $77,890.

MR. [WILLIAM F.] NORRELL [of Arkansas]: Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. Norrell: On page 109, line 8, after the word "work", strike out the sum "$77,890", and insert "including not exceeding $7,000 for payment of the Federal Government's share of resurfacing and reconstructing of Reserve Avenue from its intersection with Cottage Street at the entrance to the Army and Navy Hospital northeasterly to its intersection with Palm Street and that portion of Spring Street and Laurel Street immediately adjacent to and surrounding the grounds on which the Government free bathhouses are located, $84,890."

MR. [ALBERT E.] CARTER [of California]: Mr. Chairman, I make a point of order against the amendment on the ground it is not authorized by law. . . .

THE CHAIRMAN:[11] Permit the Chair to inquire of the gentleman from Arkansas who owns the street that is here sought to be paved? . . .

MR. [JED] JOHNSON of Oklahoma: Answering the Chair, I am compelled to say that the Park Service advises the committee that the city has jurisdiction over that street, and in fact owns the street. That is the information given the committee. The title is in the city. . . .

MR. NORRELL: I am prepared to advise the Chairman that the Federal Government owns the fee-simple title to one-half of that street, notwithstanding anything that the Department of the Interior might say.

THE CHAIRMAN: The Chair is prepared to rule. The gentleman from Arkansas offers an amendment which has been reported by the Clerk. The gentleman from California [Mr. Carter] makes the point of order against the amendment on the ground that it is not authorized by law. The Chair in-

10. 87 CONG. REC. 4057, 4058, 77th Cong. 1st Sess.

11. Jere Cooper (Tenn.).

vites the attention of the gentleman from Arkansas to section 3779, volume 4, Hinds' Precedents, which appears to the Chair to be directly in point on the question presented. This section reads as follows:

> A proposition to repair paving originally laid by the Government in a city street adjacent to a public building was held not to be in continuation of a public work.
>
> A proposition to pave city streets adjacent to a public building was held to be without authority of law.
>
> By reason of that decision and that precedent, the Chair feels that he is compelled to sustain the point of order. The Chair therefore sustains the point of order, and the Clerk will read.

Telephones in Government-owned Residences

§ 15.16 Installation of telephones in government-owned residences occupied by employees of the National Park Service was held to be authorized by law.

On Mar. 16, 1939,[12] the Committee of the Whole was considering H.R. 4852, an Interior Department appropriation. The following amendment was the subject of a point of order:

> Amendment offered by Mr. [Jed] Johnson of Oklahoma: On page 117, after line 8, insert:
>
> Appropriations herein made for the National Park Service shall be available for the installation and operation of telephones in Government-owned residences, apartments, or quarters occupied by employees of the National Park Service.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against that amendment in that it goes so far as to include quarters occupied by employees of the National Park Service, which is beyond the authority of the law.

MR. JOHNSON of Oklahoma: Mr. Chairman, these are Government-owned residences and this service is a necessary incident to the proper carrying out of the work of the Department of the Interior. If the residences in question were privately owned, there might be a question about the point of order, but certainly the language to which the gentleman objects could not possibly be construed as being subject to a point of order under the circumstances and facts stated.

THE CHAIRMAN:[13] The Chair is ready to rule. If the cottages, residences, and so forth, were privately owned, the point of order made by the gentleman from New York [Mr. Taber] might lie, but these are entirely Government-owned residences and the installation appears to be necessary and incident to the operation of the National Park Service, and for that reason the point of order is overruled.

Park Service—Educational Services

§ 15.17 An appropriation for the development of edu-

12. 84 CONG. REC. 2893, 76th Cong. 1st Sess.

13. Frank H. Buck (Calif.).

cational work of the National Park Service was held authorized under the law stating the fundamental purpose of parks, monuments, and reservations to be to conserve the scenery and the natural and historic objects and to provide for the enjoyment of the same in such manner as would leave them unimpaired for the enjoyment of future generations.

On Mar. 16, 1939,[14] the Committee of the Whole was considering H.R. 4852, an Interior Department appropriation. A point of order was directed against the bracketed language in the following paragraph:

NATIONAL PARK SERVICE

Salaries: For the Director of the National Park Service and other personal services in the District of Columbia, including accounting services in checking and verifying the accounts and records of the various operators, licensees, and permittees conducting utilities and other enterprises within the national parks and monuments, and including the services of specialists and experts for investigations and examinations of lands to determine their suitability for national-park and national-monument purposes: *Provided,* That such specialists and experts may be employed for temporary service at rates to be fixed by the Secretary of the Interior to correspond to those established by the Classification Act of 1923, as amended, and without reference to the Civil Service Act of January 16, 1883, $259,580, of which amount not to exceed $19,200 may be expended for the services of field employees engaged in examination of lands [and in developing the educational work of the National Park Service. . . .]

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the language appearing in lines 3 and 4, on page 105, reading, "and in developing the educational work" on the ground that there is no law authorizing the Department to go into educational work. . . .

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

The section that the gentleman from Oklahoma has called attention to is the basic law governing the National Park Service, and provides for the enjoyment of the same in such manner and by such means as will leave it unimpaired for the enjoyment of future generations.

Certainly the education that may be offered by the National Park Service in dealing with its own features and wildlife is a means which will leave the parks unimpaired for the enjoyment of future generations.

In addition to that, may the Chair call the attention of the Committee to a ruling made on March 2, 1938, in the Committee of the Whole when it was considering the Interior Department appropriation bill, at which time a point of order was made against the paragraph that follows this one be-

14. 84 CONG. REC. 2890, 2891, 76th Cong. 1st Sess.

15. Frank H. Buck (Calif.).

cause of the motion-picture feature. The Chairman at that time ruled that this was a necessary incident to the carrying on of the activities of the National Park Service and certainly must be regarded as in part, at least, educational.

Under that precedent and with the Chair's present understanding of the purport of the basic law, the Chair overrules the point of order.

— *Educational Lectures*

§ 15.18 An appropriation for educational lectures in national parks and other reservations under the National Park Service was held authorized under the law stating the fundamental purpose of such parks and reservations to be to conserve the natural and historical objects and to provide for the enjoyment of the same in such manner as to leave them unimpaired for the enjoyment of future generations.

On Mar. 16, 1939,[16] the Committee of the Whole was considering H.R. 4852, an Interior Department appropriation At one point the Clerk read as follows, and proceedings ensued as indicated below:

Appropriations herein made for the national parks, national monuments, and other reservations under the jurisdiction of the National Park Service, shall be available for the giving of educational lectures therein; for the services of field employees in cooperation with such nonprofit scientific and historical societies engaged in educational work in the various parks and monuments as the Secretary, in his discretion, may designate; and for travel expenses of employees attending Government camps for training in forest-fire prevention and suppression.

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Chairman, on page 116, at line 23, where it states "shall be available for the giving of educational lectures therein," I make a point of order against that language.

THE CHAIRMAN:[17] The Chair overrules the point of order for the same reason that a similar point of order has been overruled.[18]

Park Service Photographic Supplies

§ 15.19 Language in a general appropriation bill providing appropriations for photographic supplies, prints, and motion picture films for the National Park Service was held authorized by law since incidental to the work of the Service.

On Mar. 2, 1938,[19] the Committee of the Whole was consid-

16. 84 CONG. REC. 2893, 76th Cong. 1st Sess.

17. Frank H. Buck (Calif.).

18. See § 15.17, supra.

19. 83 CONG. REC. 2715, 2716, 75th Cong. 3d Sess.

ering H.R. 9621, an Interior Department appropriation. The following paragraph was the subject of a point of order:

> General expenses: For every expenditure requisite for and incident to the authorized work of the office of the Director of the National Park Service not herein provided for, including traveling expenses, telegrams, photographic supplies, prints, and motion-picture films, necessary expenses of attendance at meetings concerned with the work of the National Park Service when authorized by the Secretary of the Interior, and necessary expenses of field employees engaged in examination of lands and in developing the educational work of the National Park Service, $28,500: *Provided*, That necessary expenses of field employees in attendance at such meetings, when authorized by the Secretary, shall be paid from the various park and monument appropriations.
>
> MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Chairman, I make a point of order against this paragraph, because the motion-picture feature of it is not authorized by law. . .
>
> THE CHAIRMAN: [20] The Chair is of the opinion that this is a necessary incident to the carrying on of the National Park Service, and, therefore, overrules the point of order.

Boulder Canyon Project

§ 15.20 An appropriation for the continuation of construction of a diversion dam and main canal as part of the Boulder Canyon project was held to be authorized by the Boulder Canyon Act.

On Jan. 31, 1936,[1] the Committee of the Whole was considering H.R. 10630, a Department of the Interior appropriation bill. At one point the Clerk read as follows, and proceedings ensued as indicated below:

> Amendment by Mr. [Edward T.] Taylor of Colorado for the committee: On page 69, after line 9, insert a new paragraph to read as follows:
>
> "Boulder Canyon project (All-American Canal): For continuation of construction of a diversion dam and main canal (and appurtenant structures) located entirely within the United States connecting the diversion dam with the Imperial and Coachella Valleys in California; to acquire by proceedings in eminent domain or otherwise all lands, rights-of-way, and other property necessary for such purposes; and for incidental operations, as authorized by the Boulder Canyon Project Act, approved December 21, 1928 (U.S.C., Supp. VII, title 43, ch. 12-a), to be immediately available and to remain available until advanced to the Colorado River Dam fund, $6,500,000, and for all other objects of expenditure that are specified for projects included in the Interior Department Appropriation Act for the fiscal year 1937 under the caption 'Bureau of Reclamation.' '
>
> MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of

20. Marvin Jones (Tex.).

1. 80 CONG. REC. 1312, 1313, 74th Cong. 2d Sess.

order against the amendment that it is an appropriation not authorized by law. . .

THE CHAIRMAN:[2] The Chair will state that the appropriation proposed in the amendment offered by the gentleman from Colorado (Mr. Taylor) is authorized by the Boulder Canyon Project Act (U.S.C., title 43, sec. 617), a portion of which the Chair will read:

> And incidental works in the main stream of the Colorado River at Black Canyon or Boulder Canyon adequate to create a storage reservoir of a capacity of not less than 20,000,000 acre-feet of water and a main canal and appurtenant structures located entirely within the United States connecting the Laguna Dam, or other suitable diversion dam, which the Secretary of the Interior is hereby authorized to construct if deemed necessary or advisable by him upon engineering or economic consideration with the Imperial and Coachella Valleys, Calif.

That provision of law seems to the Chair to authorize the appropriation; therefore, the point of order is overruled.

Indian Affairs

§ 15.21 An amendment making an appropriation for financial assistance to public school districts, for the construction and equipment of public school facilities for Navaho Indian children from reservation areas not included in such districts, was held to be authorized by law.

On July 22, 1954,[3] he Committee of the Whole was considering H.R. 9936, a supplemental appropriation bill. The following proceedings took place:

MR. [JOHN J.] RHODES of Arizona: Mr. Chairman, I offer a further amendment:

> Page 10, line 7, strike out "$3,900,000" and insert in lieu thereof "$6,900,000."
>
> Page 10, line 8, after the word "expended", insert the following: "which sum is composed of $3,000,000 to provide financial assistance to public-school districts, for the construction and equipment of public-school facilities for Navaho Indian children from reservation areas not included in such districts, and $3,900,000 for payments under contracts or other obligations entered into pursuant to section 6 of the Federal Aid Highway Act of 1954 (38 Stat. 73)."

MR. [WILLIAM F.] NORRELL [of Arkansas]: Mr. Chairman, I make the point of order against the amendment that it is legislation on an appropriation bill. . .

THE CHAIRMAN:[4] The Chair is ready to rule. The Chair has examined the Rehabilitation Act of the Indian tribes and feels that it is broad enough to cover the amendment. In title 25 of the United States Code, where the Navaho and Hopi Rehabilitation Act is codified, section 631 authorizes a broad program of rehabilitation, expressly including "school buildings and equipment, and other educational measures" and funds appropriated for such pur-

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

3. 100 CONG. REC. 11451, 11452, 83d Cong. 2d Sess.

4. Leo E. Allen (Ill.).

poses are authorized to be available "for all other objects necessary for or appropriate to the carrying out of the provisions of this section." Section 452 of title 25 of the United States Code authorizes the Secretary of the Interior to contract with States or subdivisions thereof for the education of Indians. Therefore, the appropriation set forth in the amendment in the opinion of the Chair is authorized by law, and the point of order is overruled.

Smithsonian Institution

§ 15.22 An appropriation for salaries and expenses for anthropological research among the American Indians and the natives of Hawaii "and other lands under the jurisdiction or protection of the United States" was held unauthorized by law.

On Feb. 8, 1945,[5] during consideration in the Committee of the Whole of the independent offices appropriation bill (H.R. 1984), a point of order was sustained against the following provision:

The Clerk read as follows:

[SMITHSONIAN INSTITUTION]

Salaries and expenses: For all salaries and expenses necessary for continuing preservation, exhibition, and increase of collections from the surveying and exploring expeditions of the Government and from other sources; for the system of international exchanges between the United States and foreign countries; for anthropological researches among the American Indians and the natives of Hawaii and other lands under the jurisdiction or protection of the United States, and the excavation and preservation of archeological remains. . . .

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I make a point of order against certain language on page 50, lines 18 and 19, under the heading "Smithsonian Institution," as follows:

And other lands under the jurisdiction and protection of the United States.

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

THE CHAIRMAN:[6] The point of order is sustained.

Expenses of Indian Tribal Councils

§ 15.23 Appropriations for expenses of tribal councils for travel, including supplies and equipment, $5 per day in lieu of subsistence, and 5 cents per mile for use of automobiles (including visits to Washington, D.C.) when authorized and approved by the Commissioner of Indian Affairs, was held not authorized by law and to include legislation.

5. 91 CONG. REC. 953, 79th Cong. 1st Sess.

6. William M. Whittington (Miss.)

On Mar. 1, 1938,[7] the Committee of the Whole was considering H.R. 9621, an Interior Department appropriation. When the following amendment was offered, a point of order was raised against certain of its provisions:

> Amendment offered by Mr. Johnson of Oklahoma: Page 63, line 8, insert:
>
> "Expenses of tribal councils or committees thereof (tribal funds): For traveling and other expenses of members of tribal councils, business committees, or other tribal organizations, when engaged on business of the tribes, including supplies and equipment, not to exceed $5 per diem in lieu of subsistence, and not to exceed 5 cents per mile for use of personally owned automobiles, and including visits to Washington, D.C., when duly authorized or approved in advance by the Commissioner of Indian Affairs, $50,000, payable from funds on deposit to the credit of the particular tribe interested: *Provided,* That except for the Navajo Tribe, not more than $5,000 shall be expended from the funds of any one tribe or band of Indians for the purposes herein specified."
>
> MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the amendment that it is not authorized by law and that it creates additional duties for the Commissioner of Indian Affairs and, generally, that the entire matter is unauthorized.
>
> MR. [JED] JOHNSON of Oklahoma: Mr. Chairman, this is authorized under the Snyder Act, and I call attention to title 25, section 13, which clearly authorizes this expenditure. . . .
>
> THE CHAIRMAN:[8] The Chair is ready to rule. . . .
>
> The item to which attention has been called in the last paragraph of section 13, title 25, United States Code, includes the following language:
>
> > And for general and incidental expenses in connection with the administration of Indian affairs.
>
> It does not seem to the Chair that this language is sufficient to include the various items that are included in the amendment offered by the gentleman from Oklahoma, and the Chair therefore feels constrained to sustain the point of order.

Assistance to Indians

§ 15.24 Language in a general appropriation bill providing an appropriation for advances to Indians having irrigable allotments, to assist them in the development and cultivation thereof and thereby to enable Indians to become self-supporting, was held to be within the broad authority to appropriate for assistance of Indians, authorized by law and in order.

On Mar. 1, 1938,[9] the Committee of the Whole was considering H.R. 9621, an Interior De-

7. 83 CONG. REC. 2646, 75th Cong. 3d Sess.

8. Marvin Jones (Tex.).

9. 83 CONG. REC. 2638, 75th Cong. 3d Sess.

partment appropriation. At one point the Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. [Jed] Johnson of Oklahoma: Page 28, after line 10, insert a new paragraph as follows:

"For the purpose of encouraging industry and self-support among the Indians and to aid them in the culture of fruits, grains, and other crops, $240,000, which sum may be advanced to Indians for the purchase of seeds, animals, machinery, tools, implements, and other equipment necessary, and for advances to Indians having irrigable allotments to assist them in the development and cultivation thereof, in the discretion of the Secretary of the Interior, to enable Indians to become self-supporting: *Provided,* That not to exceed $75,000 of the amount herein appropriated, together with $50,000 made available for this purpose under this head in the Interior Department Appropriation Act for the fiscal year 1938, and hereby continued available for the same purpose for the fiscal year 1939, may be advanced to the Navajo Tribe of Indians for the purchase, feeding, sale, or other disposition of sheep, goats, and other livestock belonging to the Navajo Indians."

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the amendment that it is legislation on an appropriation bill, not authorized by law. I make the point of order particularly to that part of the amendment which relates to advances to the Indians having irrigable lands. There is no authority for that provision. . . .

THE CHAIRMAN:[10] The Chair is ready to rule.

The point of order is made to that provision of the amendment which authorizes advances to Indians having irrigable allotments, to assist them in the development and cultivation thereof, in the discretion of the Secretary of the Interior.

Referring to title 25, United States Code, section 13, under the heading "Expenditure of appropriations by Bureau of Indian Affairs," the Chair finds that the Bureau is authorized to spend—

> such moneys as Congress may from time to time appropriate, for the benefit, care, and assistance of the Indians throughout the United States for the following purposes.

Among these purposes are listed the following:

> General support and civilization, including education.
>
> For industrial assistance and advancement and general administration of Indian property.
>
> For extension, improvement, operation, and maintenance of existing Indian irrigation systems, and for development of water supplies.

It seems clear to the Chair the appropriation is authorized under the terms of that act, and the point of order is, therefore, overruled.

Parliamentarian's Note: The discretionary authority given to the Secretary was not specifically mentioned in the point of order and was not the basis of the Chair's ruling.

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10. Marvin Jones (Tex.).

Indian Forest Lands

§ 15.25 An appropriation for the administration of Indian forest lands from which timber was sold, to be available for the expenses of such administration "to the extent only that proceeds from the sales of timber . . . are insufficient for that purpose," was authorized by the Snyder Act.

On May 14, 1937,[11] the Committee of the Whole was considering H.R. 6958, an Interior Department appropriation bill. A point of order against the following paragraph was overruled:

> For the preservation of timber on Indian reservations and allotments other than the Menominee Indian Reservation in Wisconsin, the education of Indians in the proper care of forests, and the general administration of forestry and grazing work, including fire prevention and payment of reasonable rewards for information leading to arrest and conviction of a person or persons setting forest fires, or taking or otherwise destroying timber, in contravention of law on Indian lands, $260,000: *Provided*, That this appropriation shall be available for the expenses of administration of Indian forest lands from which timber is sold to the extent only that proceeds from the sales of timber from such lands are insufficient for that purpose. . . .[12]

MR. [RICHARD B.] WIGGLESWORTH [of Massachusetts]: Mr Chairman, I make the point of order.

THE CHAIRMAN:[13] The gentleman will state the point of order.

MR. WIGGLESWORTH: I make the point of order on the paragraph upon the ground that it is legislation on an appropriation bill.

THE CHAIRMAN: Will the gentleman kindly indicate just what there is in the paragraph that constitutes legislation on an appropriation?

MR. WIGGLESWORTH: I call the Chair's attention particularly to the proviso at the conclusion of the paragraph.

THE CHAIRMAN: In what respect does the gentleman hold that that proviso constitutes legislation?

MR. WIGGLESWORTH: It seems to me that the language is clearly legislative in character and imposes additional duties to those now in existence. . . .

THE CHAIRMAN: The Chair is prepared to rule. The gentleman from Massachusetts [Mr. Wigglesworth] makes a point of order against the proviso beginning in line 24, page 23, of the pending bill, and assigns as ground for the point of order that it is legislation on an appropriation bill.

The Chair invites the gentleman's attention to section 13 of title 25 of the United States Code, commonly known as the Snyder Act, which provides for industrial assistance and advancement and general administration of Indian property. Further, the same act provides "and for general and incidental expenses in connection with the administration of Indian affairs."

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11. 81 CONG. REC. 4596, 4597, 75th Cong. 1st Sess.

12. The latter provision could actually be regarded as a limitation.

13. Jere Cooper (Tenn.).

It is the opinion of the Chair that the provisions of existing law, to which attention has been invited, contain legislative authority for the appropriation appearing in the item to which the gentleman makes a point of order.

Therefore the Chair is of the opinion that it is not legislation on an appropriation bill and overrules the point of order.

Indians—Extent of Authority Under Snyder Act

§ 15.26 Language providing an appropriation for the purpose of encouraging industry and self-support among the Indians and outlining areas of discretionary authority to be exercised by the Secretary of the Interior was held to be authorized by the Snyder Act although other language of the paragraph in question caused the entire paragraph to be ruled out as legislation.

On May 14, 1937,[14] the Committee of the Whole was considering H.R. 6958, an Interior Department appropriation bill. At one point the Clerk read as follows, and proceedings ensued as indicated below:

For the purpose of encouraging industry and self-support among the Indians and to aid them in the culture of fruits, grains, and other crops, $165,000, which sum may be used for the purchase of seeds, animals, machinery, tools, implements, and other equipment necessary, and for advances to Indians having irrigable allotments to assist them in the development and cultivation thereof, in the discretion of the Secretary of the Interior, to enable Indians to become self-supporting: *Provided*, That the expenditures for the purposes above set forth shall be under conditions to be prescribed by the Secretary of the Interior for repayment to the United States on or before June 30, 1943, except in the case of loans on irrigable lands for permanent improvement of said lands, in which the period for repayment may run for not exceeding 20 years, in the discretion of the Secretary of the Interior: . . . *Provided further*, That the Secretary of the Interior is hereby authorized, in his discretion and under such rules and regulations as he may prescribe, to make advances from this appropriation to old, disabled, or indigent Indian allottees, for their support, to remain a charge and lien against their lands until paid. . . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the paragraph beginning on page 26, line 4. The point of order is that this is legislation on an appropriation bill and it imposes discretionary duties upon the Secretary of the Interior. The language at the bottom of the bill, beginning with "*Provided further*", line 22, and the last proviso are entirely the same. They provide that the Secretary of the Interior shall make rules and regulations and there is no question but what it imposes additional duties upon the Secretary of the Interior all the way through.

14. 81 CONG. REC. 4598, 4599, 75th Cong. 1st Sess.

In lines 17 and 18 the terms of repayment are made subject to the discretion of the Secretary of the Interior and in lines 9 and 10 it is subject to that same discretion. This is all on page 26. The whole paragraph is subject to discretion and imposes duties upon the Secretary.

MR. [JED] JOHNSON of Oklahoma: Mr. Chairman, the Committee feels that this provision is in order. It provides only a method by which the appropriation might be expended. I have no further comment to make.

THE CHAIRMAN:[15] The Chair would like to inquire of the gentleman from Oklahoma as to the authority for the language appearing in lines 1 and 2, page 27, which the Chair will quote:

> To remain a charge and lien against their land until paid—

Is there provision in some existing law creating a lien upon these lands, to which this provision refers?

MR. JOHNSON of Oklahoma: I cannot say there is provision in existing law. The only existing law would be the fact this has been in the bill for several years and, of course, that is not controlling. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from New York makes a point of order against the entire paragraph beginning in line 4, page 26, extending down to and including line 9, page 27. The gentleman from New York [Mr. Taber] in making his point of order invited attention to certain language appearing in lines 10 and 11, page 26, with reference to the discretion of the Secretary of the Interior.

The Chair has examined the act commonly referred to and known as the Snyder Act and invites attention to section 13 of that act, in which the following appears:

> Expenditures of appropriations by Bureau of Indian Affairs: The Bureau of Indian Affairs, under the supervision of the Secretary of the Interior, shall direct, supervise, and expend such moneys as Congress may from time to time appropriate for the benefit, care, and assistance of the Indians throughout the United States for the following purposes: General support and civilization, including education; for industrial assistance and advancement and general administration of Indian problems. Further, for general and incidental expenses in connection with the administration of Indian affairs.

It is the opinion of the Chair that the act to which attention has been invited confers upon the Secretary of the Interior rather broad discretionary authority. The Chair is of opinion that the language to which the gentleman invited attention is not subject to a point of order, but that the language to which the Chair invited the attention of the gentleman from Oklahoma with reference to the provisos does constitute legislation on an appropriation bill not authorized by the rules of the House. It naturally follows that as the point of order has to be sustained as to these two provisos, it has to be sustained as to the entire paragraph. The Chair therefore sustains the point of order made by the gentleman from New York.[16]

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15. Jere Cooper (Tenn.).

16. This precedent, with reference to language ruled out as legislation, is also discussed in §§ 38.14 (reimbursements), 46.13 (imposition of

Indian Agent Under Contract

§ 15.27 An appropriation in the Interior Department appropriation bill for the payment of an Indian agent employed under a contract approved by the Secretary was held to be authorized by the Snyder Act and to be merely descriptive of contract authority contained in existing law and therefore not legislative in character.

On May 14, 1937,[17] the Committee of the Whole was considering H.R. 6958. A point of order against the following language in the bill was overruled:

> Utah: Uintah and Ouray, $7,100, of which amount not to exceed $3,000 shall be available for the payment of an agent employed under a contract, approved by the Secretary of the Interior.
>
> MR. [RICHARD B.] WIGGLESWORTH [of Massachusetts]: Mr. Chairman, I make the point of order on the paragraph beginning in line 11 and ending in line 14 of page 57 that there is no authorization in law for the appropriation recommended. . . .
>
> THE CHAIRMAN:[18] The Chair is prepared to rule.

The gentleman from Massachusetts [Mr. Wigglesworth] makes a point of order against the language appearing on page 57, lines 11 to 14, inclusive, on the ground it is legislation on an appropriation bill and not authorized by existing law.

The Chair has examined the statement in the hearings to which the gentleman from Massachusetts has invited attention, and especially is impressed by the following statement contained in the hearings:

> The contract was approved on March 2, 1937, by the Commissioner of Indian Affairs and the Secretary of the Interior in accordance with sections 2103 and 2106 of the Revised Statutes of the United States.

This would clearly indicate to the Chair that the law to which reference is here made would be authority for the contract. It appears that the contract was made and the discharge of the duty entered upon under the provisions of the contract.

Attention is also invited again to the so-called Snyder Act which, among other things, provides for the employment of inspectors, supervisors, superintendents, clerks, field matrons, farmers, physicians, Indian police, Indian judges, and other employees. The language of the bill to which the point of order is directed provides for the sum of $7,100, of which amount not to exceed $3,000 shall be available for the payment of an agent employed under a contract approved by the Secretary of the Interior.

The Chair is of the opinion that this provision is clearly within the scope of existing law to which attention has been invited, and therefore is not legislation on an appropriation bill in viola-

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lien against lands as legislation), and 62.10 (provisions affecting executive authority), infra.

17. 81 CONG. REC. 4605, 75th Cong. 1st Sess.

18. Jere Cooper (Tenn.).

tion of the rules of the House. The Chair overrules the point of order.

Reclamation Law—Appropriations From "General Funds" Instead of "Reclamation Fund"

§ 15.28 Language in a general appropriation bill appropriating funds "out of the general funds of the Treasury" (and not the reclamation fund) for general investigations of proposed federal reclamation projects was held unauthorized by law and to be legislation on an appropriation bill and not in order.

On Mar. 2, 1938,[19] the Committee of the Whole was considering H.R. 9621, Interior Department appropriations for 1939.

The Clerk read as follows:

> For general investigations, $200,000, to enable the Secretary of the Interior, through the Bureau of Reclamation, to carry on engineering and economic investigations of proposed Federal reclamation projects, surveys for reconstruction, rehabilitation, or extension of existing projects and studies of water conservation and development plans, such investigations, surveys, and studies to be carried on by said Bureau either independently, or, if deemed advisable by the Secretary of the Interior, in cooperation with State agencies, and other Federal agencies, including the Corps of Engineers, National Resources Committee, and the Federal Power Commission.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the paragraph beginning on line 18, page 85, ending with line 4, page 86, upon the ground that it is legislation on an appropriation bill and is not authorized by law.

MR. [JAMES G.] SCRUGHAM [of Nevada]: Mr. Chairman, this is authorized in my opinion in the general terms of the Reclamation Act. It has been in effect for many years.

MR. TABER: Mr. Chairman, an appropriation in accordance with the authorization under the Reclamation Act is provided on page 77, line 8, down to and including line 3 on page 78. The appropriation is $25,000. That is the authorized appropriation. I do not believe there is any authority for this out of the general fund of the Treasury.

THE CHAIRMAN:[20] The Chair has examined sections 411 and 396, United States Code, title 43, and it seems to the Chair that under the terms of these two sections which are rather broad in their application, this appropriation may be authorized.

MR. TABER: Is not that limited to the reclamation fund?

THE CHAIRMAN: The Chair was looking particularly with reference to that. The Chair will read the entire section 411:

> The Secretary of the Interior is authorized and directed to make examinations and surveys for, and to locate and construct, as provided in

19. 83 CONG. REC. 2710, 2711, 75th Cong. 3d Sess.

20. Marvin Jones (Tex.).

> this chapter, irrigation works for the storage, diversion, and development of waters, including artesian wells, and to report to Congress at the beginning of each regular session as to the results of such examinations and surveys, giving estimates of cost of all contemplated works, the quantity and location of the lands which can be irrigated therefrom, and all facts relative to the practicability of each irrigation project; also the cost of works in process of construction as well as of those which have been completed.

MR. TABER: I call the attention of the Chair to the language:

> The Secretary of the Interior is authorized under the provisions of this chapter—

That is where the authority of the Secretary of the Interior and the reclamation fund are defined. That would imply that it is to be done under the provisions of the reclamation fund. It would seem to me that that is the authority under which they operated in providing the appropriation that is to be found on page 77.

THE CHAIRMAN: Does the gentleman from Nevada desire to comment on this, or the gentleman from Oklahoma? On consideration it seems to the Chair that this comes out of the general fund in the Treasury and not the reclamation fund, and this is limited in the way suggested by the gentleman from New York.

MR. SCRUGHAM: Section 411 seems to cover the matter.

THE CHAIRMAN: If this were out of the reclamation fund, there would be no question about it, but this appropriation is out of the general fund in the Treasury. The Chair is of opinion that the paragraph is subject to the point of order inasmuch as the appropriation is made out of the general fund and not the reclamation fund. The Chair sustains the point of order.

The ruling above was expressly followed on Apr. 27, 1945.[1] In the 1945 proceedings, Mr. Francis H. Case, of South Dakota, contended that legislation passed subsequently to the 1938 ruling did authorize the language in question on the 1945 bill. The Chair, however, decided that the provisions objected to on that bill still went beyond the language of the authorizing law. The proceedings on Apr. 27, 1945, relating to H.R. 3024, an Interior Department appropriation, were as follows:

> General investigations: For engineering and economic investigations of proposed Federal reclamation projects and surveys, investigations, and other activities relating to reconstruction, rehabilitation, extensions, or financial adjustments of existing projects, and studies of water conservation and development plans, such investigations, surveys, and studies to be carried on by said Bureau either independently, or in cooperation with State agencies and other Federal agencies, including the Corps of Engineers, and the Federal Power Commission, $1,485,000: *Provided,* That the expenditure of any sums from this appropriation for investigations of any nature requested by States, municipalities, or other interests shall be upon the basis of the

1. 91 CONG. REC. 3908–10, 79th Cong. 1st Sess.

State, municipality, or other interest advancing at least 50 percent of the estimated cost of such investigations.

MR. [ROBERT F.] JONES [of Ohio]: Mr. Chairman, a point of order

THE CHAIRMAN:[2] The gentleman will state it.

MR. JONES: Mr. Chairman, I make a point of order against all the language in the paragraph starting with line 14 on page 57 and continuing to the words and figures "$1,485,000," for the reason that it is legislation on an appropriation bill and for the further reason that the amount "$1,485,000" is beyond the authorization of the statute to wit, title 43, sections 411 and 411a–1 of the United States Code. The sections of the statute to which I refer are as follows:

The section is as follows:

> 411. Surveys for, location, and construction of irrigation works generally—Reports to Congress:
>
> The Secretary of the Interior is authorized and directed to make examinations and surveys for, and to locate and construct as provided in sections 372, 373 . . . and 498, of this title, irrigation works for the storage, diversion, and development of waters, including artesian wells, and to report to Congress at the beginning of each regular session all results of such examinations and surveys, giving estimates of cost of all contemplated works; the quantity and location of lands which can be irrigated therefrom, and all facts relative to the practicability of each irrigation project; also the cost of works in process of construction as well as those which have been completed.

Section 411a–1 reads as follows:

The title provides:

> Appropriations for investigations of the feasibility of reclamation projects: The sum of $125,000 annually is hereby authorized to be provided for cooperative and miscellaneous investigations of the feasibility of reclamation projects.

Mr. Chairman, I have sought Webster's definition of the words in the statutes, sections 411 and 411a–1 of title 43 of the United States Code. The definitions of the various words are as follows:

> Practicable: That may be practiced or performed; capable of being put into practice, done, or accomplished; capable of being used; readily practiced on; gullible; or pliant.
>
> Practical: Fit for doing; of, pertaining to, or consisting or manifested in, practice or action; opposed to theoretical, ideal, or speculating; available, usable, or valuable in practice or action; capable of being turned to use or account; useful; skillful or experienced from practice; given or disposed to action as opposed to speculation; capable of applying knowledge to some useful end.
>
> Practicability: A quality or state of being practicable; feasibility or an instance of it.
>
> Feasibility: Quality of being feasible; practicability; also that which is feasible.
>
> Feasible: Capable of being done, executed, or effected; practicable; fit to be used or dealt with successfully; suitable; likely; probable; reasonable.
>
> Examination: Act of examining, or state of being examined; a search or investigation; scrutiny by study or experiment; a process prescribed or assigned for testing qualification.
>
> Investigation: Act of investigating; process of inquiring into or following up; research, especially patient or thorough inquiry or examination.
>
> Survey: Act of surveying; an examination, especially an official exam-

2. Jere Cooper (Tenn.).

ination of all the parts or particulars of a thing to ascertain its condition, quantity, or quality; the operation of finding and delineating the contour, dimensions, positions, etc., as of any part of the earth's surface; to inspect; to view attentively, as from a high place; to view with a scrutinizing eye; to examine; to examine as to conditions, situation, value, etc., to examine and ascertain state of.

Following are Black's Law Dictionary definitions of such terms as appear therein:

Survey: The process by which a parcel of land is measured and its contents ascertained; also a statement of the result of such survey, with the courses and distances and the quantity of the land. . . . The land included in field notes. . . . (Black's Dictionary, p. 1689.)

Investigation: To follow up step by step by patient inquiry or observation; to trace or track mentally; to search into; to examine and inquire into with care and accuracy; to find out by careful inquisition; examination; the taking of evidence; a legal inquiry. . . .

I find that the language against which I made a point of order is not within the terms of the sections of the statute which I have read. The words I referred to which are beyond the authorization of the statutes are as follows:

Engineering, economic investigations, and other activities relating to reconstruction, rehabilitation, and extension, or financial adjustments of existing projects and studies.

Then down further there is a provision in the section that the development plans, such investigations, surveys, and studies to be carried on by said Bureau, "either independently or in cooperation with State agencies and other Federal agencies, including the Corps of Engineers and the Federal Power Commission." These provisions to which I have lastly referred are beyond the terms of the statute and beyond the limitation in money as outlined in 411 and 411a–1 of the United States Code.

So, summarizing, I make the point of order against this language which I have indicated for the reason that it is legislation on an appropriation bill; for the further reason that words go in the bill beyond the amount allowed to be appropriated; and for the further reason that it is in contradiction of existing law as outlined in these two sections.

THE CHAIRMAN: The gentleman from Ohio has made a point of order against the language appearing in the pending bill beginning in line 14 and extending to the colon in line 23 on the grounds stated by him. The gentleman from Oklahoma, chairman of the subcommittee in charge of the pending bill, has conceded the point of order.

The Chair invites attention to the fact that this same question was presented when a point of order was made on March 2, 1938. Without reviewing the decision made at that time, but citing it as a precedent as guiding the Chair in the present instance, the Chair feels that the decision then made is sound and is applicable to the question here presented, and sustains the point of order. . . .

MR. CASE of South Dakota: Mr. Chairman, did I understand the Chair to state that his decision was based on the precedent made in March 1938?

THE CHAIRMAN: One of the guiding features of the decision on the pending

point of order is the decision appearing on page 2710 and 2711 of volume 83, part 3, of the Congressional Record, Seventy-sixth Congress, Third Session, March 2, 1938.

MR. CASE of South Dakota: My reason for asking the question is that the basic Reclamation Act of August 4, 1939, was passed subsequently to the basis on which that decision was made. In addition to that, the Wheeler-Case Act, as amended in 1940, also placed on the Secretary of the Interior an obligation to make investigations of potential projects. And further, the Flood Control Act of last year, finally passed in December 1944, in several places specifically places on the Secretary of the Interior a responsibility and authority for making such investigations, in cooperation with the Secretary of War and with the States. The law that relates to the revision and adjustment of obligations on irrigation districts was a part of the act passed in 1939. The 5-year limitation on that authority expired in 1944, but Congress renewed it in a bill passed this year in the early days of this Congress. All three of these acts specifically authorize the activities on the part of the Bureau of Reclamation or the Secretary of Interior, involved in this point of order, and all these laws were passed subsequent to the precedent which the Chair has cited.

THE CHAIRMAN: The Chair did not deem it necessary or appropriate to go into too great detail in deciding the question here presented, but in the opinion of the Chair there is language appearing in that part of the bill against which the point of order was made, which is legislation on an appropriation bill and goes further than the provisions of existing law. As previously stated, the Chair sustains the point of order and the Clerk will read.

Reclamation Law—Submission of Report Constitutes Authorization

§ 15.29 An appropriation for the Arizona-Nevada Bullshead Project was held to be authorized by section 9 of the Reclamation Act of 1939 which authorized expenditures to be made following submission to Congress of a favorable report on the project's feasibility.

On May 14, 1941,[3] the Committee of the Whole was considering H.R. 4590, an Interior Department appropriation At one point the Clerk read as follows, and proceedings ensued as indicated below:

> Bullshead project, Arizona-Nevada, $5,000,000, for the purposes and substantially in accordance with the report thereon heretofore submitted under section 9 of the Reclamation Project Act of 1939, and subject to the terms of the Colorado River compact.
>
> MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order that the item contained in this project is not authorized by law. I make the point of order against the entire paragraph which has just been

3. 87 CONG. REC. 4047, 77th Cong. 1st Sess.

read, beginning in line 22, page 84, and ending in line 2, page 85.

MR. [JAMES G.] SCRUGHAM [of Nevada]: Mr. Chairman, the project is fully authorized. It is stated in the hearings, page 729, that the project has been thoroughly investigated and was not authorized at the time of the report, but it has now been authorized in accordance with section 9 of the Reclamation Act of 1939. I call attention to the Congressional Record of April 28, 1941, page 3367, under the head of "Executive communications," item 473, which fully conforms to the requirements of law. The project is authorized.

MR. TABER: Mr. Chairman, I call the attention of the Chair to the hearings at page 731, the last paragraph at the bottom of the page:

> MR. PAGE: It has not had as yet the certification of the Secretary and the approval of the President, as required by law.

THE CHAIRMAN:[4] What is the date of the page to which the gentleman refers?

MR. TABER: The date is April 3, 1941. . . .

THE CHAIRMAN: The Chair is prepared to rule. The gentleman from New York makes the point of order against the paragraph appearing in the pending bill beginning on line 22, page 84, and concluding in line 2, page 85, on the ground that it is not authorized by law. The Chair has examined section 9 of the Reclamation Act, approved August 4, 1939, which appears to be adequate authority for the Secretary of the Interior to recommend the project here in question. That section reads in part as follows:

> Sec. 9. (a) No expenditures for the construction of any new project, new division of a project, or new supplemental works on a project shall be made, nor shall estimates be submitted therefor, by the Secretary until after he has made an investigation thereof and has submitted to the President and to the Congress his report and findings on—
>
> (1) the engineering feasibility of the proposed construction . . .
>
> If the proposed construction is found by the Secretary to have engineering feasibility and if the repayable and returnable allocations to irrigation, power, and municipal water supply or other miscellaneous purposes found by the Secretary to be proper, together with any allocation to flood control or navigation made under subsection (b) of this section, equal the total estimated cost of construction as determined by the Secretary, then the new project, new division of a project, or supplemental works on a project, covered by his findings, shall be deemed authorized and may be undertaken by the Secretary. If all such allocations do not equal said total estimated cost, then said new project, new division, or new supplemental works may be undertaken by the Secretary only after provision therefor has been made by act of Congress enacted after the Secretary has submitted to the President and the Congress the report and findings involved.

The Chair invites attention to the fact that on April 28, 1941, the Secretary of the Interior transmitted to the Congress a communication including the project here in question. The gentleman from New York states that the statements made by the Commissioner of the Bureau of Reclamation were made on April 3. Thereafter, the

4. Jere Cooper (Tenn.).

Secretary of the Interior complied with the provisions of the act by transmitting a communication on April 28, 1941, recommending this project. Therefore, the Chair is constrained to overrule the point of order and does overrule the point of order.

§ 15.30 The Reclamation Act was held to authorize appropriations for irrigation projects which had been recommended by the Secretary of the Interior and approved by the President of the United States.

On May 17, 1937,[5] the Committee of the Whole was considering H.R. 6958, an Interior Department appropriation bill. A point of order was raised against the following paragraph and was overruled:

> Provo River project, Utah, $750,000.
>
> MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against this paragraph that the appropriation is not authorized by law. No construction has been started and no law is in force authorizing the project. I call the attention of the Chairman to the latter part of page 245 of the record of the hearings and to the following words:
>
> > Construction program through fiscal year 1937. The starting of actual construction work has been delayed by the necessity of organization and negotiating repayment and water-subscription contracts.
>
> It is expected that bids will be received for the construction—

And so forth. This means there has been no actual construction on this job and that it has not been authorized by specific legislation. Therefore, I make the point of order against it that it is legislation on an appropriation bill, and has not been authorized by law.

THE CHAIRMAN:[6] The Chair invites attention to the provision of the United States Code in title 43, section 413, which reads as follows:

> Approval of projects by President. No irrigation project shall be begun unless and until the same shall have been recommended by the Secretary of the Interior and approved by direct order of the President of the United States.

This is the act of June 25, 1910, commonly referred to as the Reclamation Act.

The Chair would like to inquire of the gentleman from Utah, or someone else in position to give the information, whether or not this item against which a point of order has been made has been recommended by the Secretary of the Interior and approved by the direct order of the President of the United States, and the Chair would like to have some evidence on this point.

MR. [JAMES W.] ROBINSON of Utah: Mr. Chairman, I hold in my hand, in answer to the statement of the Chair, a letter——

MR. [JAMES G.] SCRUGHAM [of Nevada]: Mr. Chairman, I offer such documentary evidence.

MR. ROBINSON of Utah: I am submitting, Mr. Chairman, a letter from Sec-

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5. 81 CONG. REC. 4680, 4681, 75th Cong. 1st Sess.

6. Jere Cooper (Tenn.).

retary Ickes, together with the approval of this project by the President.

MR. [CASSIUS C.] DOWELL [of Iowa]: Mr. Chairman, if documentary evidence is offered for the purpose of showing compliance with the law, it seems to me it should be presented to the committee.

THE CHAIRMAN: The Chair has in mind referring to the document in passing upon the question here presented.

The Chair feels he has examined sufficient evidence to supply the information requested. Does the gentleman from Utah desire to be heard further?

MR. ROBINSON of Utah: Does the Chair care to hear argument on the other proposition of whether or not work has actually been commenced on this project?

THE CHAIRMAN: The Chair does not feel that particular point is involved with respect to this particular item.

The Chair is prepared to rule.

There has been presented to the Chair a letter from the Secretary of the Interior, under date of November 13, 1935, which consists of three pages, and the Chair will only refer to the pertinent part of the letter which applies to the particular item under consideration. The letter is addressed to the President of the United States by the Secretary of the Interior. Among other things, it is stated in the letter:

> I recommend that the Provo River project, consisting of the Deer Creek division and the Utah Lake division, be approved and that authority be issued to this Department to proceed with the work and to make contracts and to take any necessary action for the construction of said projects or either division thereof.
>
> Sincerely yours,
> HAROLD L. ICKES,
> *Secretary of the Interior.*

There appears on this letter "Approved November 16, 1935, Franklin D. Roosevelt, President."

Therefore the Chair is of the opinion that the evidence is sufficient to meet the requirements in that this item in the pending bill has been recommended by the Secretary of the Interior and approved by the President of the United States, in accordance with the provisions of existing law, as cited by the Chair, appearing in section 413, title 43, of the United States Code. The Chair therefore overrules the point of order.

Reclamation Law—Incidental Administrative Expenses Authorized

§ 15.31 An amendment to the Interior Department appropriation bill proposing an appropriation for certain expenses incidental to the main purpose of carrying out the reclamation law was held to be authorized by that law.

On Mar. 1, 1938,[7] the Committee of the Whole was considering H.R. 9621, an Interior Department appropriation During consideration of the bill, a point of order against the following amendment was overruled:

> Amendment offered by Mr. [James G.] Scrugham [of Nevada]: Page 72, be-

7. 83 CONG. REC. 2655, 2656, 75th Cong. 3d Sess.

ginning with line 12, insert the following:

"Administrative provisions and limitations: For all expenditures authorized by the act of June 17, 1902, and acts amendatory thereof or supplementary thereto, known as the reclamation law, and all other acts under which expenditures from said fund are authorized, including not to exceed $100,000 for personal services and $15,000 for other expenses in the office of the chief engineer, $20,000 for telegraph, telephone, and other communication service, $5,000 for photographing and making photographic prints, $41,250 for personal services, and $7,500 for other expenses in the field legal offices; examination of estimates for appropriations in the field; refunds of overcollections and deposits for other purposes; not to exceed $15,000 for lithographing, engraving, printing, and binding; purchase of ice; purchase of rubber boots for official use by employees; maintenance and operation of horse-drawn and motor-propelled passenger vehicles; not to exceed $20,000 for purchase and exchange of horse-drawn and motor-propelled passenger-carrying vehicles; packing, crating, and transportation (including drayage) of personal effects of employees upon permanent change of station, under regulations to be prescribed by the Secretary of the Interior; payment of damages caused to the owners of lands or other private property of any kind by reason of the operations of the United States, its officers or employees, in the survey, construction, operation, or maintenance of irrigation works, payment for official telephone service in the field hereafter incurred in case of official telephones installed in private houses when authorized under regulations established by the Secretary of the Interior; not to exceed $1,000 for expenses, except membership fees, of attendance, when authorized by the Secretary, upon meetings of technical and professional societies required in connection with official work of the Bureau; payment of rewards, when specifically authorized by the Secretary of the Interior, for information leading to the apprehension and conviction of persons found guilty of the theft, damage, or destruction of public property. . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the amendment upon the ground that it is legislation upon an appropriation bill, that it includes items not authorized by law, as, for instance, $5,000 for making photographic prints, not authorized by law in line 20 and in line 22, provision for examination of estimates for appropriations in the field, which is not authorized by law; $15,000 for lithographing and engraving, not authorized by law; the purchase of ice, the purchase of rubber boots for official use by employees, not authorized by law.

THE CHAIRMAN:[8] The Chair is ready to rule. This amendment provides for all expenditures authorized by the act of June 17, 1902, and acts amendatory thereof or supplementary thereto, known as the reclamation law, and all other acts under which expenditures from said fund are authorized, and so forth. The Chair thinks that the items to which the gentleman from New York objects specifically are incidental to the main purpose of carrying

8. Marvin Jones (Tex.).

out the reclamation law. These incidental items it seems to the Chair are necessary to carry out the major purposes of the reclamation law, and the Chair, therefore, overrules the point of order.

Granting New Authority to Cover Incidental Costs

§ 15.32 Language in an appropriation bill permitting the Secretary of the Interior, when in his judgment it is necessary, to utilize appropriations made for the Indian field service to purchase certain equipment for the use of employees and to pay travel expenses of employees on official business was held unauthorized by law.

On Mar. 1, 1938,[9] during consideration in the Committee of the Whole of the Interior Department appropriation bill (H.R. 9621), a point of order was raised against the following provision:

The Clerk read as follows:

When, in the judgment of the Secretary of the Interior, it is necessary for accomplishment of the purposes of appropriations herein made for the Indian field service, such appropriations shall be available for purchase of ice, for rubber boots for use of employees, for travel expenses of employees on official business, and for the cost of packing, crating, drayage, and transportation of personal effects of employees upon permanent change of station.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the paragraph beginning with line 9, page 71, and ending with line 16, page 71. It is legislation on an appropriation bill; it requires additional duties on the part of the Secretary of the Interior and is not authorized by law.

MR. [JED] JOHNSON of Oklahoma: Mr. Chairman, I do not care to be heard.

THE CHAIRMAN:[10] The Chair sustains the point of order.

The Clerk will read.

Alaska Reindeer Industry

§ 15.33 A direction in law to an executive official to acquire, by purchase or otherwise, "necessary" cold storage plants and other equipment for purposes of developing the Alaskan Reindeer industry, was held to permit an appropriation for that object to be implemented in such manner as the official shall determine.

On Mar. 15, 1939,[11] the Committee of the Whole was considering H.R. 4852, an Interior Department appropriation At one

9. 83 CONG. REC. 2653, 75th Cong. 3d Sess.

10. Marvin Jones (Tex.).

11. 84 CONG. REC. 2789, 2790, 76th Cong. 1st Sess.

point the Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. [Jed] Johnson of Oklahoma: Page 60, line 23, insert a new paragraph, as follows:

"Reindeer industry, Alaska: For the purchase, in such manner as the Secretary of the Interior shall deem advisable, of reindeer, abattoirs, cold-storage plants, corrals and other buildings, and communication and other equipment, owned by nonnatives in Alaska, as authorized by the act of September 1, 1937 (50 Stat. 900), $820,000; and for necessary administrative expenses in connection with such purchase and the establishment and development of the reindeer industry for the benefit of the Eskimos and other natives of Alaska, as authorized by said act, including personal services in the District of Columbia (not to exceed $2,300) and elsewhere, traveling expenses, erection, repair, and maintenance of corrals, fences, and other facilities, $250,000; in all $1,070,000, to be immediately available: *Provided*, That under this appropriation not exceeding an average of $4 per head shall be paid for reindeer purchased from nonnative owners: *Provided further*, That the foregoing limitation shall not apply to the purchase of reindeer located on Nunivak Island."

MR. [JOHN C.] SCHAFER of Wisconsin: Mr. Chairman, I make the point of order against the amendment on the ground that it is legislation on an appropriation bill, unauthorized by law, and it delegates to the Department additional authority which it does not now have. . . .

MR. [ALBERT E.] CARTER [of California]: Mr. Chairman, I would like to be heard on the point of order.

THE CHAIRMAN:[12] The gentleman from California is recognized.

MR. CARTER: The opening sentence of the amendment reads:

> For the purchase in such manner as the Secretary of the Interior shall deem advisable.

Now, certainly there is nothing in the statute that gives the Secretary of the Interior that much discretion. In addition to that, Mr. Chairman, I desire to call the attention of the Chair to the proviso in the amendment which reads as the proviso in the bill, which is clearly legislation. Therefore I say the point of order must be sustained against the proposed amendment.

THE CHAIRMAN: The Chair is ready to rule. The act of September 1, 1937, on which the appropriation contained in this paragraph is based, reads in part as follows:

> Sec. 2. The Secretary of the Interior is hereby authorized and directed to acquire, in the name of the United States, by purchase or other lawful means, including exercises of power of eminent domain, for and on behalf of the Eskimos and other natives of Alaska, reindeer, reindeer range, equipment, abattoirs, cold-storage plants, warehouses and other property, real or personal, the acquisition of which he determines to be necessary to the effectuation of the purposes of this act.

This seems to be a broad, all-inclusive grant of power. The language used in the amendment offered by the gentleman from Oklahoma merely restates, in slightly different words, the authorization contained in the act of September 1, 1937.

The proviso to which the gentleman from California [Mr. Carter] refers ap-

12. Frank H. Buck (Calif.).

pears to the Chair to be nothing more than a limitation, in the strictest sense of the word.

For these reasons the Chair overrules both points of order.

Bituminous Coal Commission

§ 15.34 Language permitting an appropriation to be used for public instruction and information deemed necessary by the Bituminous Coal Commission, in the course of conducting research on coal, was held authorized by a law conferring broad discretionary authority on the Commission to undertake acts deemed "necessary" for coal promotion.

On Feb. 28, 1938,[13] the Committee of the Whole was considering H.R. 9621, an Interior Department appropriation. A point of order was raised against the following paragraph in the bill:

NATIONAL BITUMINOUS COAL COMMISSION

Salaries and expenses: For all necessary expenditures of the National Bituminous Coal Commission in performing the duties imposed upon said Commission by the Bituminous Coal Act of 1937, approved April 26, 1937 (50 Stat. 72), including personal services and rent in the District of Columbia and elsewhere . . . miscellaneous items, including those for public instruction and information deemed necessary by the Commission; and not to exceed $8,500 for purchase and exchange of newspapers, law books, reference books, and periodicals, $2,700,000.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the language beginning with the word "including" in line 11 on page 11, and running down through the word "Commission", in line 13, that it is not authorized by law, is legislation on an appropriation bill, and requires additional duties of the Commission. . . .

THE CHAIRMAN:[14] The Chair is ready to rule.

The Chair will call attention to the fact that volume 50, Statutes at Large, page 74, section 2, of the Bituminous Coal Commission Act, the last paragraph, contains this provision:

> The Commission is hereby authorized to initiate, promote, and conduct research designed to improve standards and methods used in the mining, preparation, conservation, distribution, and utilization of coal and the discovery of additional uses for coal, and for such purposes shall have authority to assist educational, governmental, and other research institutions in conducting research in coal, and to do such other acts and things as it deems necessary and proper to promote the use of coal and its derivatives.

It seems to the Chair that clearly the appropriation to which the point of order is directed is authorized by the provisions of the paragraph just read.

13. 83 CONG. REC. 2553, 75th Cong. 3d Sess.

14. Marvin Jones (Tex.).

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

THE CHAIRMAN: The Chair will be pleased to hear the gentleman further.

MR. TABER: It seems to me the language in this bill is much broader than the language in the enabling act, in that this item may permit action way beyond the range of the enabling act. With reference to particular activities like research with respect to coal, which the Commission may conduct, the Commission undoubtedly has that power; but the language in the provision against which I have made the point of order is not limited to the scope of the act. Under it the Commission may go into any conceivable subject. Therefore, it seems to me this particular language is way beyond the scope of the authorization act. If this language were limited to the scope of the authorization act, of course, it would be in order.

THE CHAIRMAN: The Chair is unable to see how broader terms could be used than are used in the enabling act, which reads:

> To assist educational, governmental, and other research institutions in conducting research in coal, and to do such other acts and things as it deems necessary and proper to promote the use of coal and its derivatives.

This provision covers not only educational, governmental, and other research institutions, but such other acts as the Commission may deem necessary.

It seems to the Chair the language of the act is fully as broad as the terms embodied in the pending bill, and, therefore, the Chair overrules the point of order.

§ 16. Federal Employment

Overseas Allowances

§ 16.1 Language in a general appropriation bill providing funds and authority for an overseas allowance for employees of the Foreign Claims Settlement Commission, "similar to the allowance established by law for Foreign Service personnel," was conceded to be unauthorized and not in order in a general appropriation bill.

On Aug. 26, 1960,[15] during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R 12740) the following point of order was raised:

> MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I make a point of order against the language in the bill on page 7, beginning on line 11, running through line 4 on page 8, as being legislation on an appropriation bill. The language referred to is as follows:
>
> FOREIGN CLAIMS SETTLEMENT COMMISSION
>
> *Salaries and expenses*
>
> For an additional amount for "Salaries and expenses," including allowances and benefits similar to those provided by title nine of the Foreign Service Act of 1946, as amended, as

15. 106 CONG. REC. 17899, 86th Cong. 2d Sess.