

ing that the proposed language would not change and augment the responsibilities imposed by law on the Office of Management and Budget and, therefore, [the Chair] sustains the point of order.

The proceedings are discussed in

§ 52.43, *infra*.

§ 23. Incorporating or Restating Existing Law

Reference as Merely Descriptive

§ 23.1 It is in order in a general appropriation bill to include language descriptive of authority provided in law for the operation of government corporations and agencies funded in the bill so long as the description is precise and does not change that authority in any respect.

On June 15, 1973,⁽¹¹⁾ during consideration in the Committee of the Whole of a general appropriation bill (H.R. 8619), a point of order was raised against the following provision:

CORPORATIONS

The following corporations and agencies are hereby authorized to make

11. 119 CONG. REC. 19843, 19844, 93d Cong. 1st Sess.

such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

MR. [CHARLES A.] VANIK [of Ohio]: Mr. Chairman, I make a point of order against the language found in line 13, through line 22, on page 20, on the basis that it is legislation in an appropriation bill.

THE CHAIRMAN:⁽¹²⁾ The gentleman from Ohio (Mr. Vanik) makes a point of order against the language found on page 20, line 13 through line 22.

Does the gentleman from Ohio wish to be heard?

MR. VANIK: Mr. Chairman, it is legislation on an appropriation bill. It clearly says, "The following corporations," meaning the Federal Crop Insurance Corporation and the Commodity Credit Corporation, "are authorized to make expenditures."

This is the work of the legislative committee, and I contend that this is legislation on an appropriation bill and that this ought to be handled by the legislative committee rather than made a part of the appropriation bill.

THE CHAIRMAN: Does the gentleman from Mississippi (Mr. Whitten), desire to be heard?

MR. [JAMIE L.] WHITTEN: Mr. Chairman, I rise to make the point that the

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

point of order should not lie. We have language in the original act to make this authorization, and by reason of repeating it in this act, that does not change the basic law. It is already authorized.

In this situation the committee is setting a ceiling rather than creating an authority. While we use the same words and repeat the same words, the committee has, in effect, set a ceiling, so I submit that it is not subject to a point of order, because it merely repeats the law which is already authorized.

THE CHAIRMAN: The Chair has gone to the original source—the Government Corporation Control Act—to which reference is made on page 20 in this appropriation bill.

The Chair discovers that the budget programs transmitted by the President to the Congress under this act shall be considered and legislation shall be enacted making necessary appropriations as may be authorized by law for expenditures of such corporations.

Clearly there is no question as to the right of the Congress to include in this annual appropriation bill funds for these Government corporations, several of which are included in the bill.

It appears to the Chair that this is descriptive or introductory language only and that the language does not constitute change in existing law. Therefore it is in order, and for those reasons the Chair overrules the point of order.

Descriptive Language Not Derived From Existing Law

§ 23.2 An amendment proposing to insert the words

“known as ‘Rankin Dam’ ” following an appropriation for Pickwick Landing Dam was held to be legislation and not in order on an appropriation bill.

On May 8, 1936,⁽¹³⁾ during consideration in the Committee of the Whole of a deficiency appropriation bill (H.R. 12624), a point of order was raised against the following amendment:

The Clerk read as follows:

Page 19, line 2, after the words “Pickwick Landing Dam”, insert the following: “(known as ‘Rankin Dam’).”

MR. [JOHN J.] MCSWAIN [of South Carolina]: Mr. Chairman, I make a point of order on the amendment that it is legislation on an appropriation bill. It is evidently an attempt to change the name and call it “Rankin Dam.” It is in the teeth of legislation that has been attempted time and time again. There are bills before the Committee on Military Affairs to change the name of this dam to “Rankin Dam.”

MR. [HAROLD] KNUTSON [of Minnesota]: I should like to ask the gentleman if it is not customary to wait until the man is dead before they name a dam for him?

MR. MCSWAIN: Yes; it is.

THE CHAIRMAN:⁽¹⁴⁾ Does the gentleman from Mississippi wish to be heard on the point of order?

13. 80 CONG. REC. 6964–67, 74th Cong. 2d Sess.

14. John W. McCormack (Mass.).

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, if the Chair will permit.

THE CHAIRMAN: The Chair recognizes the gentleman from Missouri.

MR. CANNON of Missouri: Mr. Chairman, this amendment is not legislation. It is language merely descriptive, and such amendments have been repeatedly held not to be legislation.

I recall two decisions on this point. They were made by one of the greatest parliamentarians who has served in the House, James R. Mann, of Illinois.

The first was made in 1905 when an amendment was offered, I think, to the Naval bill.

The language provided that ships or armament should be of "native manufacture." . . . Mr. James R. Mann, of Illinois, held that those words were merely descriptive and that it was not legislation.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Chairman, will the gentleman yield?

MR. CANNON of Missouri: I yield with pleasure to the distinguished leader on the other side of the House.

MR. SNELL: If the words are merely descriptive, why will they have the effect of changing the name of the dam?

MR. CANNON of Missouri: They do not change the name of the dam. It is not proposed to change the name of the dam.

MR. SNELL: But is not that the intention? I call it legislation. Is not that the intention of the amendment?

MR. CANNON of Missouri: The gentleman from New York, being one of the ablest parliamentarians in the House, knows that the Chairman of the Committee of the Whole may not

speculate as to the intention of an amendment. He must predicate his decision on the amendment before him in the language in which it is written. He cannot go back of what is on the face of it to surmise what is the purpose of a Member in offering an amendment. This amendment merely further describes the Pickwick Landing Dam; it does not propose a change in the name; it merely adds the descriptive language "known as the Rankin Dam." . . .

THE CHAIRMAN: The Chair is prepared to rule. The Chair entirely agrees with the gentleman from Missouri [Mr. Cannon], with reference to the use of descriptive words. Therefore, the question in the mind of the present occupant of the chair is whether the amendment is descriptive or whether it constitutes legislation. Without regard to whether or not it brings about a change in the name of the dam from "Pickwick Landing Dam" to "Rankin Dam", it is the opinion of the Chair, with profound respect for the opinion of the gentleman from Missouri, one of the outstanding parliamentarians of all time, that the amendment does not constitute descriptive language; that it constitutes legislation. It is an addition to the language used in this bill. The Chair would rule the same whether or not the legislation referred to by the gentleman from South Carolina [Mr. McSwain] contained the words "Pickwick Landing Dam" or not, because that name is included in the bill now before the House.

Profoundly respecting the views of the gentleman from Missouri, and with considerable hesitation in disagreeing with him, it is the opinion of the Chair that the point of order is well taken, and the Chair therefore sustains the point of order.

Presumption of New Legislative Effect—Authority to Enter Into Contracts

§ 23.3 Although under existing law it may be in order to appropriate money for entering into contracts it is not in order to grant authority to enter into contracts to carry out the provisions of a legislative act.

On Jan. 18, 1940,⁽¹⁵⁾ during consideration in the Committee of the Whole of the independent offices appropriation bill (H.R. 7922), a point of order was raised against the following provision:

The Clerk read as follows:

In addition to the contract authorizations of \$115,000,000 contained in the Third Deficiency Appropriation Act, fiscal year 1937, and \$230,000,000 in the Independent Offices Appropriation Act, 1940, the Commission is authorized to enter into contract for further carrying out the provisions of the Merchant Marine Act, 1936, as amended, in an amount not to exceed \$150,000,000.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the paragraph on the ground that it is legislation on an appropriation bill. I refer to the paragraph beginning in line 22, page 71, and ending in line 3, page 72.

MR. [SCHUYLER OTIS] BLAND [of Virginia]: Mr. Chairman, I desire to be heard upon the point of order. . . .

MR. TABER: Mr. Chairman, there is something to say on the point of order. Almost every one of the sections that has been read specifically says "out of available funds." The general situation is that these contracts cannot be entered into without specific authority, and those things are not provided for in the general legislation.

THE CHAIRMAN:⁽¹⁶⁾ The Chair is ready to rule.

The gentleman from New York [Mr. Taber] makes the point of order that the paragraph now under consideration is legislation on an appropriation bill. Of course, it is well known that the United States Maritime Commission has authority under the law to enter into contracts. Assuming that to be true, what would be the purpose in that Commission having authority under an appropriation bill to enter into contracts, unless it was for some new purpose?

An almost similar proposition of this kind came up on the second deficiency bill on April 28, 1937, at which time the Committee of the Whole was presided over by Mr. Vinson of Kentucky, when an amendment was offered dealing with the Tennessee Valley Authority. The Chair, at that time, construed it to be legislation on an appropriation bill. The present occupant of the chair so construes it, and sustains the point of order.

Parliamentarian's Note: Pursuant to section 401(a) of the Congressional Budget Act of 1974 (Pub. L. No. 93-344) which prohibits the inclusion of new contract spending or borrowing au-

15. 86 CONG. REC. 508, 509, 76th Cong. 3d Sess.

16. Lindsay C. Warren (N.C.).

thority in legislative bills unless such authority is limited to the extent or in amounts provided in appropriation acts, the inclusion of proper limiting language in a general appropriation bill, if specifically permitted by law, would not render that language subject to a point of order under Rule XXI clause 2, since it would no longer "change existing law."

— *Incorporating or Mandating Full Funding Levels*

§ 23.4 Language in a general appropriation bill requiring that the mandatory funding levels prescribed by existing law shall be effective during the fiscal year was ruled out as legislation, in violation of Rule XXI clause 2, on the theory that if the language were an exact restatement of the law it was unnecessary and that its inclusion in the appropriation act indicated that it was presumed to have a legislative effect beyond that in existing law.

On Feb. 19, 1970,⁽¹⁷⁾ during consideration in the Committee of the Whole of the Departments of Labor and Health, Education, and Welfare appropriation bill (H.R.

17. 116 CONG. REC. 4019, 91st Cong. 2d Sess.

15931), a point of order was raised against the following provision:

MR. [NEAL] SMITH of Iowa: Mr. Chairman, I make a point of order against the language on page 57, lines 9 through 16, which reads as follows:

Provided further, That those provisions of the Economic Opportunity Amendments of 1967 and 1969 that set mandatory funding levels, including newly authorized programs for alcoholic counseling and recovery and for drug rehabilitation, shall be effective during the fiscal year ending June 30, 1970: *Provided further*, That of the sums appropriated not less than \$22,000,000 shall be used for the family planning program.

Mr. Chairman, I make the point of order on the ground that it is legislation on an appropriation bill. . .

THE CHAIRMAN:⁽¹⁸⁾ Does the gentleman from Michigan seek recognition on this point of order?

MR. [JAMES G.] O'HARA [of Michigan]: I do, Mr. Chairman.

Mr. Chairman, it seems to me the amendment simply restates existing law in the authorizing legislation, and if that is indeed the case, I do not think it is subject to a point of order.

THE CHAIRMAN: The Chair will say that if this restates existing law, there is no point in its being in the bill, and the fact that it is in the bill on its face would indicate there must be legislation in it in addition to that contained in existing law. The Chair, therefore, sustains the point of order.

18. Chet Holifield (Calif.).

— *Granting Authorization for Project*

§ 23.5 Language in an appropriation bill authorizing the Director of Selective Service to destroy records accumulated under the Selective Training and Service Act was held to be legislation and not in order.

On Mar. 30, 1955,⁽¹⁹⁾ during consideration in the Committee of the Whole of the independent offices appropriation bill (H.R. 5240), a point of order was raised against the following provision:

The Clerk read as follows:

Appropriations for the Selective Service System may be used for the destruction of records accumulated under the Selective Training and Service Act of 1940, as amended, which are hereby authorized to be destroyed by the Director of Selective Service after compliance with the procedures for the destruction of records prescribed pursuant to the Records Disposal Act of 1943, as amended (44 U.S.C. 366–380): *Provided*, That no records may be transferred to any other agency without the approval of the Director of Selective Service.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Chairman, I make the point of order that the first 7 words in line 18, page 27, “which are hereby authorized to be destroyed” is legislation on an appropriation bill, because it au-

thorizes the Director to destroy records.

THE CHAIRMAN:⁽²⁰⁾ That is the specific language to which the gentleman makes his point of order?

MR. HOFFMAN of Michigan: Yes.

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

MR. [ALBERT] THOMAS: Mr. Chairman, we ask for the ruling of the Chair. We doubt that this is legislation.

THE CHAIRMAN: The Chair is ready to rule. This is clearly legislation on an appropriation bill.

MR. [JOHN] PHILLIPS [of California]: Mr. Chairman, may I be heard very briefly on that? Apparently the Chair feels this is legislation, but this follows the Records Disposal Act of 1943 Does it become legislation if it is a repetition of a statute?

THE CHAIRMAN: Why is it necessary to have it if it is already in the law? The Chair thinks it is clearly legislation and sustains the point of order.

Language Either Legislation or Not Necessary

§ 23.6 Language in a general appropriation bill providing that funds for the construction of Indian health facilities could be expended “through the Department of Interior at the option” of the Secretary of the Department of Health, Education, and Welfare was held to be legislation and not in order.

19. 101 CONG. REC. 4070, 84th Cong. 1st Sess.

20. Albert Rains (Ala.).

On Mar. 29, 1960,⁽¹⁾ during consideration in the Committee of the Whole of the Departments of Labor and Health, Education, and Welfare appropriation bill (H.R. 11390), a point of order was raised against the following provision:

The Clerk read as follows:

CONSTRUCTION OF INDIAN HEALTH
FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites; purchase and erection of portable buildings; purchase of trailers; and provision of domestic and community sanitation facilities for Indians; \$8,964,000, to remain available until expended: *Provided*, That such expenditures may be made through the Department of the Interior at the option of the Secretary of the Department of Health, Education, and Welfare.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I make the point of order against the language on page 28, line 22, which reads "*Provided*, That such expenditures may be made through the Department of the Interior at the option of the Secretary of the Department of Health, Education, and Welfare' on the ground that that, too, is legislation on an appropriation bill. . . .

MR. [WALTER H.] JUDD [of Minnesota]: Mr. Chairman, may I be heard on the point of order?

THE CHAIRMAN:⁽²⁾ The Chair will be pleased to hear the gentleman from Minnesota on the point of order.

MR. JUDD: Mr. Chairman, I am sorry we do not have here the text of the law which transferred the medical care of our Indian population to the Public Health Service. As the author of the original bill, I am sure that it had language which authorized the Public Health Service to carry on medical care for the Indians through the Department of the Interior and its existing agencies when that could be done to greater advantage and without greater cost. Whether that language in the original bill was retained in the final law, I do not recall, and we do not have the text of it here.

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

The Chair is of the opinion that the language is obviously legislation on an appropriation bill and therefore sustains the point of order; making the observation with respect to the arguments raised by two of the gentlemen that if the language is in existing law then it is not necessary in this bill.

§ 23.7 Language in an appropriation bill authorizing the Secretary of the Navy to enter into contracts for new construction of aircraft and equipment, including expansion of public or private plants, was held to be legislation on an appropriation bill and not in order.

On Apr. 13, 1949,⁽³⁾ during consideration in the Committee of the

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

3. 95 CONG. REC. 4521, 81st Cong. 1st Sess.

1. 106 CONG. REC. 6863, 6864, 86th Cong. 2d Sess.

Whole of the military establishment appropriation bill (H.R. 4146), a point of order was raised against the following provision:

The Clerk read as follows:

For new construction and procurement of aircraft and equipment, spare parts and accessories therefor, including expansion of public plants or private plants (not to exceed \$500,000), and Government-owned equipment and installation thereof in public or private plants, and for the employment of personnel in the Bureau of Aeronautics necessary for the purposes of this appropriation, to remain available until expended, \$523,070,000, of which \$418,000,000 is for liquidation of obligations incurred under authority heretofore granted to enter into contracts for the foregoing purposes; and in addition, the Secretary of the Navy is authorized to enter into contracts for the purposes of this appropriation in an amount not to exceed \$576,546,000.

MR. [FREDERIC R.] COUDERT [Jr., of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN:⁽⁴⁾ The gentleman will state it.

MR. COUDERT: Mr. Chairman, I reserve a point of order with respect to the last three lines of that paragraph—lines 8, 9, and 10, on page 65, as legislation on an appropriation bill. . . . In other words, Mr. Chairman, my point of order is to the following language: “and in addition, the Secretary of the Navy is authorized to enter into contracts for the purposes of this appropriation in an amount not to exceed \$576,546,000.”

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

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

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, of course there is authorization by law for the procurement and contracts of procurement of munitions, armaments and airplanes. It seems to me that there is ample justification for the provision contained in this bill. I insist, Mr. Chairman, that the point of order is not well taken.

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from New York makes the point of order to the language appearing on page 65, line 8, after the word “purposes” down to and including the figure on line 10 on the ground that it is legislation on an appropriation bill. The Chair is of the opinion that if in existing law the Secretary of the Navy were authorized to enter into such contracts, this language in the bill would not be necessary; if the Secretary of the Navy is without that power, this language is legislation on an appropriation bill.

The Chair sustains the point of order.

Restriction of Discretion

§ 23.8 Where existing law established priorities to be followed by an executive official in the distribution of funds authorized thereby (but did not explicitly preclude distribution of some funds for lower priority projects), an amendment to an appropriation bill requir-

ing that those appropriated funds shall be distributed in accordance with such priorities may be regarded as constituting a stronger mandate as to the use of those funds and as a modification of the authorizing law, and therefore out of order.

On June 15, 1972,⁽⁵⁾ during consideration in the Committee of the Whole of the Departments of Labor and Health, Education, and Welfare appropriation bill, a point of order was raised against the following amendment:

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Yates: at page 22, line 4, change the period to a semicolon and add the following: "Provided that the funds herein appropriated for bilingual education under the Bilingual Education Act shall be distributed in accordance with the authority contained in Section 703(b) of said Act requiring that the Commissioner shall give highest priority to states and areas within states having the greatest need for programs under the Act, and that such priority shall take into consideration the number of children of limited English-speaking ability between the ages of three (3) and eighteen (18) in each state;"

MR. [DANIEL J.] FLOOD [of Pennsylvania]: Mr. Chairman, I make a point of order to the amendment on the

ground it is obviously legislation on an appropriation bill. The amendment applies to a specific provision of the act, and any time you do that, that is patently, obviously, and clearly legislation upon an appropriation bill.

MR. YATES: Mr. Chairman, I think the gentleman is indulging in double talk. I do not quite understand what his point of order is. This is a repetition of the statute itself and is therefore completely clear.

MR. FLOOD: There is a deviation.

MR. YATES: There is not a deviation. It is an actual quotation.

MR. FLOOD: There was a slight change, which was ruled on by the Chair in ruling on the point of order, and it is out of order for that reason.

THE CHAIRMAN:⁽⁶⁾ The Chair is ready to rule. The language of the gentleman's amendment states that the Commissioner shall give the highest priority to States and areas within the States having the greatest need for the program under the act. But the amendment goes further and also states that the funds in the pending bill shall be distributed in accordance with the authority contained in Section 703 of the act. While the statute states priorities, the amendment is mandatory and directs the Commissioner to follow those priorities. It thus goes beyond the law, is a modification of existing law, and is, therefore, legislation.

MR. YATES: Mr. Chairman, will the Chair indulge me and permit me to read what the act states?

THE CHAIRMAN: The Chair has just read the act. The gentleman may read it again.

5. 118 CONG. REC. 21131, 92d Cong. 2d Sess.

6. Chet Holifield (Calif.).

MR. YATES: Here is what the act states. I read from section 703:

In determining distribution of funds under this title, the Commissioner shall give highest priority to States and areas within States having the greatest need for programs under this title. Such priority shall take into consideration the number of children of limited English-speaking ability between the ages of 3 and 18 in each state.

I incorporated that language in my amendment, Mr. Chairman, and I am not deviating from it. I am following the act and asking that the funds be allocated in accordance with the authority of that section

THE CHAIRMAN: The gentleman's language is different from the language in the act although it is similar. There is a mandate in the gentleman's language that the funds shall be distributed in accordance with the priorities stated in the act, and the statute only says the Commissioner shall give the highest priority to States and areas within the States having the greatest need for programs pursuant to this title. Therefore, the Chair finds that the amendment carries a stronger mandate than that in the statute and is, therefore, legislation on an appropriation bill.

The Chair, therefore, sustains the point of order.

§ 23.9 To an appropriation for the purchase of reindeer, an amendment limiting the purchase to an average price of \$4 per head was held to be a limitation restricting the availability of funds and in order.

On Mar. 15, 1939,⁽⁷⁾ the Committee of the Whole was considering H.R. 4852, an Interior Department appropriation. The Clerk read as follows, and proceedings ensued as indicated below:

Reindeer industry, Alaska: For the purchase, in such manner as the Secretary of the Interior shall deem advisable and without regard to sections 3709 and 3744 of the Revised Statutes, reindeer, abattoirs, cold-storage plants . . . and communication and other equipment, owned by nonnatives in Alaska, as authorized by the act of September 1, 1937 (50 Stat. 900), \$820,000 . . . *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.] SCHAFFER of Wisconsin: Mr. Chairman, I make the point of order against the paragraph on the ground that it is legislation on an appropriation bill unauthorized by law. In fact, the language clearly indicates that it repeals the specific provisions of existing law as incorporated in sections 3709 and 3744 of the Revised Statutes.

THE CHAIRMAN:⁽⁸⁾ Does the gentleman from Oklahoma desire to be heard?

MR. [JED] JOHNSON of Oklahoma: No; I concede the point of order.

7. 84 CONG. REC. 2789, 2790, 76th Cong. 1st Sess.

8. Frank H. Buck (Calif.).

THE CHAIRMAN: The point of order is sustained.

MR. JOHNSON of Oklahoma: Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amendment offered by Mr. 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 . . . as authorized by the act of September 1, 1937 (50 Stat. 900), \$820,000 . . . *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. 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. JOHNSON of Oklahoma: Mr. Chairman, I feel that it is unnecessary to make an extended argument, as I am sure the Chair is fully advised and ready to rule. Certainly there is no question but that this item is clearly authorized by existing law. Authority will be found in the act of September 1, 1937, Fiftieth Statutes, page 900. It plainly authorizes an appropriation of \$2,000,000. I call the attention of the Chair to section 16 which reads as follows:

The sum of \$2,000,000 is hereby authorized to be appropriated for the

use of the Secretary of the Interior in carrying out the provisions of this act.

MR. [HAROLD] KNUTSON [of Minnesota]: What more authority do you want? That is enough.

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

THE CHAIRMAN: 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 appears 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.

§ 23.10 Where existing law authorized the expenditure of funds for the benefit and existence of Indians, under broad supervisory powers given to the Secretary of the Interior, provisions in an appropriation bill which imposed further conditions affecting both the exercise of those powers and the use of funds were ruled out as legislation.

On May 14, 1937,⁽⁹⁾ during consideration in the Committee of the Whole of the Interior Department appropriation bill (H.R. 6958), a point of order was raised against the following provision:

The Clerk read 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, \$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 not to exceed \$25,000 of the amount herein appropriated shall be expended on any one reservation or for the benefit of any one tribe of Indians: *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: *Provided further*, That not to exceed \$15,000 may be advanced to worthy Indian youths to enable them to take educational courses, including courses in nursing, home economics, forestry, and other industrial subjects in colleges, universities, or other institutions, and advances so made shall be reimbursed in not to exceed 8 years, under such rules and regulations as the Secretary of the Interior may prescribe.

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 appropria-

9. 81 CONG. REC. 4598, 4599, 75th Cong. 1st Sess.

tion 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.

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: ⁽¹⁰⁾ 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 would like to inquire further of the gen-

tleman with reference to the language appearing in lines 7 and 8, page 27, reading as follows:

And advances so made shall be reimbursed in not to exceed 8 years under such rules and regulations as the Secretary of the Interior may prescribe.

Will the gentleman advise the Chair as to any provision of existing law upon which this language is based?

MR. JOHNSON of Oklahoma: Mr. Chairman, this is the exact language that has been used for several years and the gentleman from Oklahoma knows of no specific basis of law for it.

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 gen-

10. Jere Cooper (Tenn.).

eral 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.

Restatement of Law Applying to Other Funds

§ 23.11 Where the Foreign Assistance Act of 1961 contained a prohibition against the furnishing of assistance to countries supplying or shipping certain items to North Vietnam, a similar but not identical provision in a general appropriation bill was ruled out as legislation in violation of Rule XXI clause 2.

On June 4, 1970,⁽¹¹⁾ during consideration in the Committee of the

11. 116 CONG. REC. 18406, 91st Cong. 2d Sess.

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

The Clerk read as follows:

Sec. 116. No assistance shall be furnished under the Foreign Assistance Act of 1961, as amended, to any country that sells, furnishes or permits any ships under its registry to carry to North Vietnam any of the items mentioned in subsection 107(a) of this Act.

MR. [PETER H. B.] FRELINGHUYSEN [Jr., of New Jersey]: Mr. Chairman, I rise to make a point of order.

THE CHAIRMAN:⁽¹²⁾ The gentleman will state his point of order.

MR. FRELINGHUYSEN: Mr. Chairman, I make the point of order against section 116 in that it constitutes legislation in an appropriation bill. I would like to add, furthermore, it is almost word for word part of a prohibition which is already contained in existing law, and that is section 620(n) of the Foreign Assistance Act. The fact is the existing law is stronger and broader in its restriction than the language in this appropriation bill.

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

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, I ask for a ruling on the point of order.

THE CHAIRMAN: The Chair is prepared to rule on the point of order.

The language is similar and almost like the language contained in the Foreign Assistance Act of 1961. However, it is clearly legislation on an appro-

12. Hale Boggs (La.).

priation bill, and the point of order is sustained.

Sense of Congress That Existing Law Should Apply

§ 23.12 Language in a foreign aid appropriation bill expressing the sense of Congress in opposition to discrimination by foreign nations on the basis of race or religion against American citizens traveling abroad, and requiring negotiations with such nations to be conducted in accordance with that congressional policy, was conceded to be legislation in violation of Rule XXI clause 2.

On June 4, 1970,⁽¹³⁾ during consideration in the Committee of the Whole of the foreign assistance appropriation bill (H.R. 17867), a point of order was raised against the following provision:

Sec. 106. It is the sense of Congress that any attempt by foreign nations to create distinctions because of their race or religion among American citizens in the granting of personal or commercial access or any other rights otherwise available to United States citizens generally is repugnant to our principles; and in all negotiations between the United States and any for-

13. 116 CONG. REC. 18403, 91st Cong. 2d Sess.

ign state arising as a result of funds appropriated under this title these principles shall be applied as the President may determine.

MR. [PETER H. B.] FRELINGHUYSEN [Jr., of New Jersey]: Mr. Chairman, I make a point of order against section 106, lines 17 through 25 on page 8 on the ground that it constitutes legislation in an appropriation bill.

Mr. Chairman, I would like to add further that the essential wording of this section is already in existing law, and has been so for many years. I refer to section 102 of the Foreign Assistance Act. That section reads as follows:

The Congress further declares that any distinction made by foreign nations between American citizens because of race, color or religion in the granting of, or in the exercise of personal or other rights available to American citizens, is repugnant to our principles.

THE CHAIRMAN:⁽¹⁴⁾ Does the gentleman from Louisiana (Mr. Passman) desire to be heard on the point of order?

MR. [OTTO E.] PASSMAN: Yes, Mr. Chairman; we concede the point of order. . .

THE CHAIRMAN: The gentleman from Louisiana concedes the point of order, and the Chair sustains the point of order.

§ 23.13 A provision in a general appropriation bill, restating, but not in identical language, a declaration of the sense of Congress on a matter of foreign policy [a

14. Hale Boggs (La.).

declaration found originally in the Foreign Assistance Act of 1962], was held to be legislation and was ruled out on a point of order.

On Sept. 20, 1962,⁽¹⁵⁾ during consideration in the Committee of the Whole of the foreign aid appropriation bill (H.R. 13175), the following point of order was raised:

MR. [PETER H. B.] FRELINGHUYSEN [Jr., of New Jersey]: Mr. Chairman, I make a point of order against section 112 on page 8.

The language of that section is as follows:

Sec. 112. It is the sense of Congress that in the administration of these funds great attention and consideration should be given to those nations which share the view of the United States on the world crisis.

THE CHAIRMAN:⁽¹⁶⁾ The gentleman will state the point of order.

MR. FRELINGHUYSEN: Mr. Chairman, that language is already embodied in the basic act⁽¹⁷⁾ and is legislation on an appropriation bill. . . .

15. 108 CONG. REC. 20181, 87th Cong. 2d Sess.
16. Wilbur D. Mills (Ark.)
17. See Public Law No. 87-565, §101, which stated in part: "It is the sense of Congress that in the administration of these funds great attention and consideration should be given to those countries which share the view of the United States on the world crisis and which do not, as a result of United States assistance, divert

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, I ask for a ruling.

THE CHAIRMAN: The Chair sustains the point of order made by the gentleman from New Jersey.

Limiting Discretion Bestowed by Law

§ 23.14 Language in a general appropriation bill providing that none of the funds therein should be used unless certain procurement contracts were awarded on a formally advertised basis to the lowest responsible bidder was held to be legislation where existing law provided an exception from such procedure.

On June 28, 1961,⁽¹⁸⁾ during consideration in the Committee of the Whole of the defense appropriation bill (H.R. 7851), the following point of order was raised:

MR. [JAMES E.] VAN ZANDT [of Pennsylvania]: Mr. Chairman, I make a point of order against the legislation contained in lines 15 to 19 on page 38, reading as follows:

their own economic resources to military or propaganda efforts, supported by the Soviet Union or Communist China, and directed against the United States or against other countries receiving aid under this Act."

18. 107 CONG. REC. 11502, 87th Cong. 1st Sess.

That none of the funds appropriated in this act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

THE CHAIRMAN:⁽¹⁹⁾ Does the gentleman from Texas desire to be heard on the point of order?

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, the point of order, as I understand, is against the following language:

That none of the funds appropriated in this act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

This is a provision in the act which has been, I believe, in the act since about 1953, but there is a slight change in the wording of the proviso this year in line 18.

This language more or less repeats existing law. I refer to chapter 137 under "Procurement Generally," volume 10, United States Code 2304(a):

Purchases of and contracts for property or services covered by this chapter shall be made by formal advertising. However, the head of an agency may negotiate . . . if . . . (10) the purchase or contract is for property or services for which it is impracticable to obtain competition.

So we call for the formally advertised bids wherever practical. It seems to me this is a restatement of the law. It has a tendency to reduce the funds in the bill, and I believe it is not subject to a point of order.

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

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Pennsylvania [Mr. Van Zandt] makes a point of order to the language appearing on page 38, lines 15 to 19 inclusive on the ground that it is legislation in an appropriation act.

The Chair has listened with attention to the gentleman from Texas and would say to him that if this is a restatement of existing law the language in this bill is not necessary. But in line with the argument advanced by the gentleman from Texas, that it is a restatement setting out existing law, in the opinion of the Chair it imposes affirmative obligations on an executive branch of the Government and is, therefore, legislation on an appropriation act.

The Chair sustains the point of order.

Restrictive Modification of Authority in Law; Rural Electrification

§ 23.15 Where existing law authorized the use of funds for the Rural Electrification Administration for a certain purpose, a restriction in an appropriation bill making funds therein for the REA available "only" for that purpose was held a limitation as containing only the language of existing law.

On Mar. 24, 1944,⁽²⁰⁾ the Committee of the Whole was consid-

20. 90 CONG. REC. 3105-07, 78th Cong. 2d Sess.

ering H.R. 4443, an Agriculture Department appropriation bill. The Clerk read as follows:

Amendment offered by Mr. [Lyle H.] Boren [of Oklahoma]: Page 78, line 5, add the following: "*Provided*, That the moneys appropriated or otherwise authorized under this caption ('Rural Electrification Administration') and expended or loaned under the authority conferred by section 4 of the act approved May 20, 1936, shall be used only to finance the construction and operation of generating plants, electric transmission and distribution lines, or systems, for the furnishing of electric energy to persons in rural areas who are not now receiving central station service: *Provided further*, That none of the moneys appropriated or otherwise authorized under this caption ('Rural Electrification Administration') shall be used to finance the construction and operation of generating plants, electric transmission and distribution lines, or systems in any area of the United States included within the boundaries of any city, village, or borough having a population in excess of 1,500 inhabitants."

MR. [WILLIAM R.] POAGE [of Texas]: Mr. Chairman, a point of order.

THE CHAIRMAN: ⁽²¹⁾ The gentleman will state his point of order.

MR. POAGE: Mr. Chairman, I make the point of order that, rather than being a limitation on the appropriation, this is a change in the substantive law that authorized the Rural Electrification Administration; and I call the attention of the Chair to a ruling that was handed down on April 19,

1943, when substantially the same amendment was offered, the only difference being that the word "exclusively" has now been changed to "only." I submit those words have exactly the same meaning and that the ruling applied at that time would be applicable at this time. . . .

MR. BOREN: Mr. Chairman, I submit that the proposed amendment merely reaffirms existing law. It does not change existing law. It does not change existing law or the substantive law that created the Rural Electrification Administration or that governs its organization and I submit that the proposals are limiting to the appropriation in that the sole purpose and object of the proposals are to prevent the use of this particular money outside the provisions of existing law. That is, that they cannot use the particular money involved in the appropriation in line 5, page 78, to buy out electrical systems in towns in excess of a population of 1,500.

Mr. Chairman, to support my contention that this is existing law I want to say that the language of the first proviso is lifted directly from section 4 of the R.E.A. Act approved May 20, 1936, section 4 of which reads as follows:

Sec. 4. The Administrator is authorized and empowered, from the sums hereinbefore authorized, to make loans to persons, corporations, States, Territories, and subdivisions and agencies thereof, municipalities, peoples, utility districts and cooperatives, nonprofit, or limited-dividend associations organized under the laws of any State or Territory of the United States, for the purpose of financing the construction and operation of generating plants, electric

21. William M. Whittington (Miss.).

transmission and distribution lines or systems for the furnishing of electric energy to persons in rural areas who are not receiving central station service.

That language is the language that is in the act of May 20, 1936, substantially word for word.

THE CHAIRMAN: If the Chair may interrupt the gentleman, if it is existing law what is the necessity for it being in the amendment?

MR. BOREN: Mr. Chairman, the Chair anticipates the point of my discussion in justifying the amendment. The reason is that so far as appropriations are concerned, they have issued opinions down there by a circuitous route and have managed to go ahead and buy electrical systems in towns with a population in excess of 1,500. They have done it in connection with other appropriations. So I want to pick up this particular \$20,000,000 and say that this \$20,000,000 shall not be expended in that illegal fashion.

Mr. Chairman, the language of the second proviso is lifted directly from section 13 of the R.E.A. Act approved May 20, 1936. Section 13 reads as follows:

Sec. 13. As used in this act the term "rural area" shall be deemed to mean any area of the United States not included within the boundaries of any city, village, or borough having a population in excess of 1,500 inhabitants, and such term shall be deemed to include the farm and non-farm population thereof.

Mr. Chairman, it so happens that I served on the committee which created the R.E.A. and I was a member of the subcommittee that created it. I have a thorough familiarity with the act and

with the amendments that have been made to the act since its original creation. I know what was in the mind of the committee when this organization was created. But in spite of that, they are spending this money to buy electrical plants in towns with a population as high as 10,000 people. I want to limit the use of this appropriation so that they cannot buy out existing facilities in cities having populations of ten or twenty thousand.

Mr. Chairman, I submit that the point of order is not substantiated by the facts in this case. First, this is a limitation and, second, the language used has been lifted verbatim from the substantive act creating this organization. . . .

MR. POAGE: . . . The amendment states, as I understand it, that this money shall be used only for these purposes. When you refer to the existing law the word "only" is not in existing law. I wonder if the gentleman will tell us whether the word "only" has been inserted in the proposed amendment? . . .

MR. BOREN: Mr. Chairman, just one final word in explanation of my position. In the first instance, we inserted the word "only" which is a limiting word only. They have been doing it not for this purpose but for other purposes.

THE CHAIRMAN: Does the word "only" appear in the statute, in response to the question asked by the gentleman from Texas [Mr. Poage)?

MR. BOREN: The word "only" does not appear in the statute That is in the second proviso. Neither do the words "shall not be used for other purposes" but I make the contention that is the thing that makes it limiting. . . .

MR. [FRANCIS H.] CASE [of South Dakota]: Would the gentleman's amendment expand the basic law and authorize expenditures for anything not authorized in the basic law?

MR. BOREN: It does not. It is solely limiting.

MR. CASE: In the use of the word "only," does that word "only" limit the appropriation to expenditures for only a particular purpose?

MR. BOREN: It does not. It does not preclude any of the purposes in the substantive law.

MR. CASE: I wonder if the gentleman would explain this. My understanding of a limitation is that it restricts the appropriation to a portion of the original purposes. You cannot expand an appropriation but you can restrict it. If the use of the word "only" limits to only a certain part of the basic appropriation, then it is a restriction and a limitation.

MR. BOREN: My amendment does not in any iota expand or take in any new purposes. It limits the practice that is going on.

The reason I answered the gentleman as I did is, I am unwilling, in my own judgment, to hold that the other practices outside of this limitation are justified by law, but it does limit them in some of the practices they are carrying on that they are claiming come under the law. . . .

THE CHAIRMAN: The Chair is ready to rule.

Reference has been made to similar amendments that have been heretofore presented. It has also been stated that the language of the amendment offered is identical with an amendment presented on April 19, 1943, but an exam-

ination of the amendment offered at that time will show that the language was considerably and materially different than the language of the proposed amendment. Aside from that, the Chair is more anxious to be correct than perhaps consistent.

MR. POAGE: Mr. Chairman, I do not want it to be understood that I said that the wording of these amendments were identical.

THE CHAIRMAN: The Chair did not so state that the gentleman or any other Member said that. That was brought to the attention of the Chair a few minutes ago. As the Chair stated, he is more interested in being correct than consistent.

Inasmuch as it is conceded that the language of the first proviso is the language of the substantive law except for the word "only," the first proviso is a limitation, and in view of the fact the second proviso is also a limitation, the point of order is overruled.

Parliamentarian's Note: The ruling referred to by Mr. Poage, of Apr. 19, 1943, and the amendment that was ruled out as legislation, were as follows:⁽¹⁾

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from Oklahoma offers an amendment to the amendment offered by the gentleman from Mississippi [Mr. Rankin] in the following words:

1. Under consideration was H.R. 2481, the Agriculture Department appropriation bill of 1944. The Chairman on that occasion also was William M. Whittington (Miss.)

Provided, That these loans shall be exclusively for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines or systems for the furnishing of electric energy to persons in rural areas who are not receiving central station service.

The Chair is unable to see where there is any limitation in the language used and concludes it is legislation, therefore sustains the point of order.

Renegotiation Act Made Applicable to Contracts Under the Appropriation

§ 23.16 To the appropriation for the Tennessee Valley Authority, an amendment proposing to make contracts entered into by the Authority and by the Atomic Energy Commission subject to the Renegotiation Act was held to be legislation on an appropriation bill and not in order.

On Dec. 15, 1950,⁽²⁾ during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 9920), a point of order was raised against the following amendment, and proceedings ensued as indicated below:

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

2. 96 CONG. REC. 16672-74, 81st Cong. 2d Sess.

The Clerk read as follows:

Amendment offered by Mr. Case of South Dakota: Page 11 after line 12, insert a new section, as follows:

“RENEGOTIATION OF CONTRACTS

“Sec. 602. (a) All negotiated contracts for procurement in excess of \$1,000 entered into during the current fiscal year by or on behalf of the Atomic Energy Commission and the Tennessee Valley Authority, and all subcontracts thereunder in excess of \$1,000, are hereby made subject to the Renegotiation Act of 1948 in the same manner and to the same extent as if such contracts and subcontracts were required by such act to contain the renegotiation article prescribed in subsection (a) of such act. Each contract and subcontract made subject to the Renegotiation Act of 1948 by this section shall contain an article stating that it is subject to the Renegotiation Act of 1948. . . .”

MR. [ALBERT A.] GORE [of Tennessee]: . . . Mr. Chairman, the amendment offered by the distinguished and able gentleman from South Dakota, is a lengthy, complicated, and far-reaching one. . . . It operates as an amendment of the renegotiation law. . . .

THE CHAIRMAN:⁽³⁾ The gentleman from South Dakota [Mr. Case] has offered an amendment which has been reported. The gentleman from Tennessee [Mr. Gore] has made a point of order against the amendment, on the ground that it contains legislation on an appropriation bill.

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

THE CHAIRMAN: The gentleman concedes the point of order, and therefore the Chair sustains the point of order.

3. Jere Cooper (Tenn.).

Exception From Limitation Applying Standard of Existing Law

§ 23.17 To a paragraph in a general appropriation bill denying use of funds in the bill for direct assistance to several designated countries, an amendment permitting availability of those funds for assistance to some of those countries in accordance with the requirements of section 116 of the Foreign Assistance Act (which prohibits assistance under part I thereof to all countries engaging in patterns of violations of internationally recognized human rights unless such assistance will directly benefit the needy people in such country) was held a proper exception from a limitation which did not add legislation since the amendment would allow assistance only pursuant to determinations already required by existing law as to the qualifications of all recipient countries.

On Aug. 3, 1978,⁽⁴⁾ during consideration in the Committee of the Whole of the foreign assistance appropriation bill (H.R. 12931), a

4. 124 CONG. REC. 24249, 24250, 95th Cong. 2d Sess.

point of order was raised against the following amendment:

The Clerk read as follows:

Amendment offered by Mr. [Tom] Harkin [of Iowa]: Page 11, strike out the period on line 17 and insert in lieu thereof", except that funds appropriated or made available pursuant to this Act for assistance under part I of the Foreign Assistance Act of 1961 (other than funds for the Economic Support Fund or peace-keeping operations) may be provided to any country named in this section (except the Socialist Republic of Vietnam) in accordance with the requirements of section 116 of the Foreign Assistance Act of 1961." . . .

MR. [CLARENCE D.] LONG of Maryland: Mr. Chairman, I do make a point of order against the Harkin amendment. . . .

The gentleman's amendment clearly would place substantial additional new duties on officers of the Government. Mr. Chairman, in chapter 26, section 11.1, of "Deschler's Procedures," the following is stated:

But when an amendment, while curtailing certain uses of funds carried in the bill, explicitly places new duties on officers of the government or implicitly requires them to make investigations, compile evidence, or make judgments and determinations not otherwise required of them by law, then it assumes the character of legislation and is subject to a point of order.

Mr. Chairman, the gentleman's amendment intends that aid should be provided to certain countries if such assistance will directly benefit the needy people in such countries. Several legislative provisions currently exist that presently provide for such deter-

minations, but these provisions do not apply to all the funds appropriated in this bill.

In addition, the gentleman's amendment would require officials to make judgments and determinations that they are not required to make at the present time. We presently have no AID programs or AID missions in any of these countries. In two of the countries we do not have diplomatic relations, Vietnam and Cambodia. In one country we have no U.S. Government representative, and that country is Uganda. The gentleman's amendment would not only allow direct assistance to flow to these countries, which is not now possible, but also would require some U.S. Government official to determine if the assistance is reaching the needy. This would require a U.S. Government official to travel to these countries to make an onsite inspection since there are no AID missions in any of these countries and no U.S. Government representation present in three of the countries. The gentleman's amendment definitely places substantial additional duties on U.S. Government officials.

Also current law prohibits any direct assistance to Vietnam, Laos, Cambodia, Uganda, Mozambique, or Angola. The gentleman's amendment would allow direct assistance to flow to these countries if the assistance would benefit the needy people. This in effect changes the existing law. The amendment is legislative in nature and in violation of clause 2, rule XXI. . . .

MR. HARKIN: Mr. Chairman, by the fact that I have included section 116 of the Foreign Assistance Act of 1961, by that very inclusion those four countries so named and listed are then put in

the category of being gross violators of human rights, and because of the inclusion, then, of section 116, which I have laid out in my amendment, there are no new duties imposed in my amendment—only the requirements of existing law. . . .

MR. LONG of Maryland: I would simply say that we do not have missions in these countries, and the duties that would be required, to find out whether needy people would get the money, would require us to send people there. That clearly imposes duties on the Government which are not implied in the current legislation.

THE CHAIRMAN:⁽⁵⁾ The Chair is ready to rule.

According to the amendment, the only funds that the amendment refers to are funds provided for in the bill, and the only exception would be to the Socialist Republic of Vietnam; but funds are to be provided in accordance with the requirements of law and the law cited is, on its face, applicable to the countries covered by the amendment; so the Chair does not see that there are any new duties imposed on anyone by the amendment. Therefore, the Chair respectfully overrules the point of order.

Restriction of Funds—But Requiring Finding of Intent Not Required by Law

§ 23.18 An amendment to the District of Columbia appropriation bill denying use of funds to grant business licenses to persons who offer

5. Abraham Kazen, Jr. (Tex.).

for sale in the course of business drug paraphernalia, as defined in a Model Drug Paraphernalia Act which required findings of intent that certain articles for sale be intended for use in drug preparation or use, was ruled out as legislation requiring new duties and judgments of government officials.

On Sept. 22, 1981,⁽⁶⁾ during consideration in the Committee of the Whole of the District of Columbia appropriation for fiscal year 1982 (H.R. 4522), a point of order against an amendment was sustained as follows:

The Clerk read as follows:

Amendment offered by Mr. [Charles E.] Bennett [of Florida]: Page 20, after line 25, insert the following new section:

Sec. 124. None of the funds appropriated in this Act may be used to grant a business license to any person who, after the date of enactment of this Act, offers drug paraphernalia (as defined in the Model Drug Paraphernalia Act drafted by the United States Department of Justice, August 1979) for sale in the course of the business for which such license is required.

MR. [JULIAN C.] DIXON [of California]: Mr. Chairman, I make a point of order that the amendment of the gentleman violates clause 2 of rule XXI of the House in that it would impose additional duties on the District's li-

censing officials who have to either inspect all places that are doing business to determine whether they are selling such items; but probably more importantly, they would have to determine the intent for which such items would be used. . . .

MR. BENNETT: . . . [T]he amendment does not impose any additional duties, because the term drug paraphernalia is very specifically defined in the DEA's Model Act, which has been adopted already by 23 States and, of course, it would not create additional duties, because the District already employs license inspectors who routinely visit establishments of vendors who have such a license.

THE CHAIRMAN:⁽⁷⁾ . . . The question is a difficult one, but after consultation with the Parliamentarian and in reviewing precedents, the Chair finds, and quotes directly from page 537 of the House Rules and Manual:

Where an amendment to or language in a general appropriation bill implicitly places new duties on officers of the government or implicitly requires them to make investigations, compile evidence, or make judgments and determinations not otherwise required of them by law, such as to judge intent or motives, then it assumes the character of legislation and is subject to a point of order.

The Model Act incorporated by reference in the amendment requires a determination that the drug equipment being sold be intended for use in connection with drug preparation or use.

The Chair, therefore, rules that the point of order is well taken and the point of order is sustained.

6. 127 CONG. REC. 21576, 21577, 97th Cong. 1st Sess.

7. William R. Ratchford (Conn.).

Restricting Discretion and Requiring Determinations—Where Legal Requirement for Such Duties Is Not Explicit

Requiring New Determination “In Accordance With Existing Law”—Burden of Citing Law

§ 23.19 The burden of proof is on the proponent of an amendment to a general appropriation bill to show that a proposed executive determination is required by existing law, and the mere recitation that the determination is to be made pursuant to existing law and regulations, absent a citation to the law imposing that responsibility, is not sufficient to overcome a point of order that the amendment constitutes legislation.

On Sept. 16, 1980,⁽⁸⁾ during consideration in the Committee of the Whole of the Department of Defense appropriation bill (H.R. 8105), a point of order against an amendment was sustained as follows:

. . . No funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving eco-

8. 126 CONG. REC. 25606, 25607, 96th Cong. 2d Sess.

omic dislocations: *Provided further*, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

The Clerk read as follows:

Amendment offered by Mr. [Joseph P.] Addabbo [of New York]: Page 41, line 23, strike out “*Provided further*,” and all that follows through ‘economic dislocations:’ on page 42, line 1, and insert in lieu thereof “*Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations other than contracts made by the Defense Logistics Agency and such other contracts of the Department of Defense as may be determined by the Secretary of Defense pursuant to existing laws and regulations as not to be inappropriate therefor by reason of national security considerations:”. . .

MR. [JACK] EDWARDS¹ OF Alabama: Mr. Chairman, I make a point of order against the amendment as legislation in a general appropriation bill, and therefore in violation of clause 2 of rule XXI.

I respectfully direct the attention of the Chair to Deschler’s Procedure, chapter 25, section 11.2 which states:

It is not in order to make the availability of funds in a general appropriation bill contingent upon a substantive determination by an executive official which he is not otherwise required by law to make.

I also respectfully direct the attention of the Chair to section 843 of the House Manual, which states in part:

The fact that a limitation on the use of funds may . . . impose certain

incidental burdens on executive officials does not destroy the character of the limitation as long as it does not directly amend existing law and is descriptive of functions and findings already required to be undertaken under existing law. . . .

Mr. Chairman, the amendment prohibits the payment of price differentials on contracts except—and I quote:

As may be determined by the Secretary of Defense pursuant to existing laws and regulations as not to be inappropriate therefor by reason of national security considerations.

The exception makes the availability of funds for payment of price differentials contingent on a substantive determination by the Secretary of Defense which is not now required under the current law. Although the determination is limited “pursuant to existing laws and regulations,” there is no existing law at the present time, and if this amendment is enacted, it will constitute the existing law and require this new determination. . . .

THE CHAIRMAN:⁽⁹⁾ The Chair is ready to rule.

The amendment would appear to call for a determination by the Secretary of Defense as to appropriateness by reason of national security considerations. Unless the gentleman from New York (Mr. Addabbo) can cite to the Chair those provisions of existing law requiring such determinations with respect to defense contracts, the Chair must conclude that the amendment would impose new duties upon the Secretary and would constitute legislation.

9. Daniel D. Rostenkowski (Ill.).

***Restriction on Use of Funds
Language Implying Cooperation
With Other Government
Agencies “Where Authorized
by Law”***

§ 23.20 A provision in an amendment to a general appropriation bill containing funds for an FTC collection of line-of-business data from not more than 250 firms including data presently made available to the Bureau of Census, Securities and Exchange Commission and other government agencies where authorized by law was held not to change existing law relating to agency authority for collection of such data.

On June 21, 1974,⁽¹⁰⁾ during consideration in the Committee of the Whole of H.R. 15472 (Department of Agriculture, environment and consumer appropriation bill), an amendment was held in order as follows:

The Clerk read as follows:

Amendment offered by Mr. [Jamie L.] Whitten [of Mississippi]: Page 47, line 6, after the word “data” add the following: “*Provided*, That none of these funds shall be used for collecting line-of-business data from not [sic] more than 250 firms, including

10. 120 CONG. REC. 20601, 20602, 93d Cong. 2d Sess.

data presently made available to the Bureau of the Census, the Securities and Exchange Commission and other government agencies where authorized by law.”. . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, the point of order is under House Rule XXI, clause 2, second sentence. . .

Now, under existing law and without the limitations reported to be added in this bill the Federal Trade Commission could and had intended—and, of course, what it actually intended is not material here, because the question is what it could have done—it could have used the funds as appropriated here for either 250 firms or 500 firms or any other number of firms. So what is done by this amendment is to restrict the Federal Trade Commission with respect to powers and duties and authorities which it would have but for this limitation.

The authorities on this point appear in volume VII of Cannon's Precedents, section 1675, which reads:

A proper limitation does not interfere with executive discretion or require affirmative action on the part of the Government officials. . . .

It would also require liaison with the Bureau of Census, the Securities and Exchange Commission, and other Government agencies which are not here designated but which would cover the whole gamut of such agencies.

So it both provides a limitation on executive discretion and affirmative acts on the part of Government officials. . . .

MR. [JOHN] MELCHER [of Montana]: . . . Public Law 93-153 authorizes line-of-business data to be collected by

independent regulatory agencies subject to certain procedures. It did not limit or restrict the collection of this data to any specific number of firms, as the gentleman's amendment would; he would change this policy by arbitrarily limiting the collection of the data specifically to 250 firms.

In addition, Mr. Chairman, Public Law 93-153 does not authorize the collection of line-of-business data from the Bureau of the Census of the Security and Exchange Commission. This authority was placed in an “independent regulatory agency.”. . .

THE CHAIRMAN:⁽¹¹⁾ The Chair is ready to rule.

First, let the Chair state that this subject contains a very vexing point, and it is one that has required a lot of attention of the Chair, even prior to the arguments here.

The words in contest on this point of order are the following words added by the amendment:

. . . provided that none of the funds shall be used for collecting line-of-business data from not more than 250 firms, including data presently made available by the Bureau of the Census, the Securities and Exchange Commission, and other government agencies where authorized by law.

It is clear to the Chair that the words “provided that none of these funds shall be used for collecting line of business data of not more than 250 firms” may clearly be added as an amendment to a general appropriation bill, and it is in order. The Committee on Appropriations could have refused to bring in any appropriation at all for

11. Sam Gibbons (Fla.).

this agency, and the committee seeks by this amendment to put a limitation upon the use of funds available to the FTC. The limitation is drafted as a restriction on the use of funds, and not as an affirmative restriction on the scope of the FTC investigation, as was the case in the language stricken from the bill on the preceding point of order.⁽¹²⁾

The remainder of the amendment raises some question, but in the opinion of the Chair, these words are clearly limited by "where authorized by law," and do not permit the Census Bureau or the SEC to initiate line of business investigations, so the Chair is going to rule that the amendment is in order and that the points of order are overruled.

Restriction of Funds Based on Determinations Already Required by Law

§ 23.21 An amendment to a general appropriation bill prohibiting the use of funds therein to pay salaries of federal employees who assess civil penalties on small farmers for violations of the Occupational Health and Safety Act which are neither willful, repeated, nor serious was held not to require new determinations and not to violate Rule XXI clause 2, where

12. See §51.18, *infra*, for discussion of the earlier point of order referred to by the Chair.

it was shown that existing law (29 USC §666) already required those precise determinations to be made in assessing penalties under that act.

On June 24, 1976,⁽¹³⁾ during consideration in the Committee of the Whole of the Departments of Labor and Health, Education, and Welfare appropriation bill, a point of order against an amendment was overruled as follows:

The Clerk read as follows:

Amendment offered by Mr. [William D.] Ford of Michigan as a substitute for the amendment offered by Mr. Skubitz: In lieu of the matter proposed to be inserted by the amendment offered by Mr. Skubitz, insert the following: "Provided, That none of the funds appropriated under this paragraph shall be used to pay the salary of any employee of the Department of Labor who proposes the assessment of monetary penalties for any violation which, under the provisions of section 17 of the Occupational Safety and Health Act of 1970 is neither (1) willful, (2) repeated, nor (3) serious, to any employer who is engaged in a farming operation and employs 5 or fewer employees." . . .

Mr. [PAUL] FINDLEY [of Illinois]: I make a point of order that the amendment is not in order. It does not fall within the Holman rule, and I would like to be heard on the point of order. . . .

Mr. Chairman, I have listened to the amendment. It was clear to me that

13. 122 CONG. REC. 20373, 20374, 94th Cong. 2d Sess.

this would require that a determination be made, first of all, that a violation is willful; second, that a violation is repeated; third, that a violation is serious. One of the conditions of the Holman rule is that it not impose a burden upon the administration. If this language does not impose a burden upon the administration, I do not know what would. . . .

MR. FORD of Michigan: . . . With all due respect to the gentleman who is an expert on the amendment procedure, I am afraid he did not fully hear the amendment as read, because what the amendment says is that no employee of the Department of Labor who proposes the assessment of monetary penalties for any violation—any violation—which under the provisions of section 17 of the Occupational Safety and Health Act of 1970 is defined as—and the determination is already made by that section of the act. There is no duty imposed on the Secretary that is in any way different from the duty imposed presently by the statutory law that we are appropriating this money for. We do not impose any new duty. He did not draw any new definitions. It is simply a question of whether he will assess monetary damages against a person who is accused of a violation that falls within the purview of any one of these section 17 definitions. . . .

MR. [DAVID R.] OBEY [of Wisconsin]: . . . If we are going to talk about additional duties imposed, then certainly if this amendment is out of order, the original amendment ought to be out of order because we have a letter from the U.S. Department of Labor which outlines some of the additional duties required in fact by the original amendment. Under the amendment offered

by the gentleman from Kansas (Mr. Skubitz) they would have to issue new regulations, they would have to draw up new forms, they would have to monitor recordkeeping by farmers, they would have to change the inspector instruction manual, they would have to verify employment records, and a number of other duties. So I certainly think the same latitude extended to the original amendment ought to be extended to the substitute.

THE CHAIRMAN:⁽¹⁴⁾ May the Chair inquire of the gentleman from Michigan, did the Chair understand the gentleman from Michigan to declare that section 17 of the Occupational Safety and Health Act of 1970 in its present form already requires the determinations on the part of the Administrator as to willfulness, repetition, or seriousness of offenses?

MR. FORD: That is correct.

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

Basing the Chair's assumption upon the interpretation of existing law as described by the gentleman from Michigan, the Chair finds that there would be no additional duties imposed upon the Administrator, no additional determinations required of him, and the amendment merely describes determinations already required by existing law and is essentially, therefore, a limitation upon the appropriation.

Under the rules the Chair would overrule the point of order.

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

Denial of Funds to Implement Executive Order Limitation May Contain Language Conforming to Legal Authority it Seeks to Restrict

§ 23.22 As it is in order by way of a limitation on an appropriation bill to deny the use of funds therein for implementation of an Executive order, an amendment precisely describing the contents of the Executive order does not for that reason violate Rule XXI clause 2.

On Mar. 16, 1977,⁽¹⁵⁾ an amendment to a general appropriation bill prohibiting the use of funds therein for salaries or expenses connected with dismissal of any pending indictments, or termination of any pending investigation of violations of the Military Selective Service Act, or to permit persons to enter the United States who committed or apparently committed violations of that act—the exact determinations required by an Executive order issued pursuant to law by the President to implement his pardon program for draft evaders—was held in order as a limitation, not requiring new determinations by federal officials, which merely denied the avail-

ability of funds to implement the Executive order. The proceedings were as indicated below:

The Clerk read as follows:

Amendment offered by Mr. John T. Myers [of Indiana]: On page 72, after line 27, add the following new section:

“Sec. 305. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses in connection with the dismissal of any pending indictments for violations of the Military Selective Service Act alleged to have occurred between August 4, 1964 and March 28, 1973, or the termination of any investigation now pending alleging violations of the Military Selective Service Act between August 4, 1964 and March 28, 1973, or permitting any person to enter the United States who is or may be precluded from entering the United States under 8 U.S.C. 1182 (a)(22) or under any other law, by reason of having committed or apparently committed any violation of the Military Selective Service Act.” . . .

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Chairman, I make a point of order that [the amendment] is legislation in an appropriations bill, obviously legislation in an appropriations bill. . . .

MR. JOHN T. MYERS . . . This is a limiting amendment. This Congress has adopted similar language a great many times limiting how the funds so appropriated may be used. I do not by any means wish to challenge or question the authority the Executive has in issuing a pardon. That is a constitutional responsibility or right that the Executive has. But this Congress has the constitutional responsibility and right to appropriate money. All this

15. 123 CONG. REC. 7748, 7749, 95th Cong. 1st Sess.

amendment does is limit how that money shall be spent again by an exercise that this Congress has used a great many times.

It is a negative restriction of funds. It is consistent exactly with the language that was used in the Executive order relating to the program of pardon. This amendment does not change existing law nor does it impose additional duties. The language of the amendment conforms exactly to the language of that Executive order. . . .

The constitutional argument is a moot one, I feel. Whatever the constitutional powers of the President may be, there is no obligation upon the Congress, there never has been, that we have to appropriate the money. . . .

THE CHAIRMAN:⁽¹⁶⁾ . . . The Chair is constrained to rule that the amendment does not directly impose additional duties upon the Executive, the amendment may have the effect of restricting Executive discretion by a simple negative use of the appropriation but the determinations to be made are already required by law and the Executive order and are not new determinations. The point of order is overruled.

Exception to Limitation if President Makes a Determination Already Required by Law

§ 23.23 Where existing law (50 USC App. 2403(c), 2406(g)) permitted the President to impose export controls, spe-

16. Walter Flowers (Ala.).

cifically on agricultural commodities not in short domestic supply, unless he and the Secretary of Agriculture determined that the absence of controls would be detrimental to the foreign policy or national security of the United States, an amendment to a general appropriation bill prohibiting the use of funds therein for export controls on agricultural commodities unless subsequently imposed solely for those reasons was allowed; the amendment's impact on discretionary authority with respect to commodities in short supply was, however, subsequently cited in debate and, if cited earlier, might have led to modification of the Chair's ruling.

On July 23, 1980,⁽¹⁷⁾ during consideration in the Committee of the Whole of H.R. 7584 (Departments of State, Justice, Commerce, and the Judiciary appropriation bill), the following amendment was held in order:

The Clerk read as follows:

Amendment offered by Mr. [E. Thomas] Coleman [of Missouri] to the amendment offered by Mr.

17. 126 CONG. REC. 19295, 96th Cong. 2d Sess.

[Mark] Andrews of North Dakota:⁽¹⁸⁾ after the word “commodity” in the last line insert: “unless on or subsequent to October 1, 1980, the President imposes a restriction on the export of any such commodity solely on the basis that such export would prove detrimental to the foreign policy or national security of the United States”. . . .

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, I make a point of order against the amendment in that it exceeds the limitation and imposes additional duties upon the President of the United States. . . .

MR. COLEMAN: . . . Mr. Chairman, the point of order is not well taken because my amendment does not establish any new additional duties. It simply says that if the President of the United States subsequent to October 1, 1980, imposes an embargo then none of these funds shall be used to fund that embargo. It imposes absolutely no new duties. It simply states that if the President on his own takes some action, that none of these funds shall be used to support that action. . . .

THE CHAIRMAN:⁽¹⁹⁾ The Chair is prepared to rule.

The gentleman from Massachusetts (Mr. Conte) makes a point of order against the amendment of the gentleman from Missouri (Mr. Coleman) on the grounds that it imposes an additional duty, and constitutes legisla-

tion on an appropriation bill. Ordinarily, such Presidential determination language on an appropriation bill would constitute legislation, but the amendment only repeats verbatim the determination authority contained in the section of existing law (section 4(c) of the Export Administration Act of 1979) which has been called to the Chair's attention.

Therefore, the amendment does not constitute new legislation in any way discernible to the Chair.

Limitation Restating Language in Authorization Bill

§ 23.24 While a limitation on the use of funds in a general appropriation bill does not constitute a violation of Rule XXI clause 2 if it merely restates identical language in existing law, the legislation in question must have been signed into law.

On Aug. 4, 1978,⁽²⁰⁾ during consideration in the Committee of the Whole of the foreign aid appropriation bill (H.R. 12931), a point of order against the following amendment was sustained:

The Clerk read as follows:

Amendment offered by Mr. [Henry A.] Waxman [of California]: On page 13 of the bill after line 16, insert the following new section:

“Sec. 116. Funds appropriated or made available in this act for inter-

18. The Andrews amendment provided: “None of the funds appropriated by this Act may be used to carry out or enforce any restriction on the export of any agricultural commodity.” See 126 CONG. REC. 19087, 96th Cong. 2d Sess., July 22, 1980.
19. George E. Brown, Jr. (Calif.).

20. 124 CONG. REC. 24436, 24437, 95th Cong. 2d Sess.

national narcotics control shall not be used for the eradication of marijuana through the use of the herbicide paraquat, unless the paraquat is used in conjunction with another substance or agent which will effectively warn potential users of marijuana that paraquat has been used on it." . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I make a point of order against the amendment because it is not a proper limitation on an appropriation bill but is legislation on an appropriation bill. It requires additional duties of some person or persons in the Government, not only to determine whether or not the herbicide named is being used but to go beyond that and also determine whether it is being used in conjunction with another substance as a warning, and so on. None of this is authorized by law. It is legislation on an appropriation bill. . . .

MR. WAXMAN: Mr. Chairman, the authorization bill has similar language that would provide for this kind of restriction in the use of the money and I would consider it an essential point of what we are trying to accomplish in the appropriation bill. . . .

Mr. Chairman, the authorization bill has similar language that would provide for this kind of restriction of the use of money I would consider it an essential part of what we are trying to accomplish in the appropriations bill.

THE CHAIRMAN:⁽¹⁾ The Chair is ready to rule.

The Chair will inform the gentleman from California (Mr. Waxman) that the authorization bill is not as yet law.

1. Abraham Kazen, Jr. (Tex.).

Were it law, the gentleman's amendment might be authorized and in order, but at this point the Chair will, very respectfully, sustain the point of order.

§ 24. Construing Existing Law; Repealing Existing Law

Generally, language in an appropriation bill proposing to repeal existing law is legislation and not in order. Similarly, an amendment in the form of a limitation but construing or interpreting existing law is legislation and not in order on an appropriation bill.

It is important to note, however, that some amendments have been permitted which resulted in an application or use of funds different from that contemplated in existing law. This may occur where the language of the amendment is drafted strictly as a negative limitation or restriction on the use of funds, and does not explicitly change a formula for distribution or allocation of funds that is prescribed in existing law.⁽²⁾

2. For discussion of criteria applicable in determining whether a provision comprises language of "negative limitation," see § 64, *infra*.

Also of interest is a ruling on Mar. 4, 1954, discussed in § 74.3, *infra*. In