

against the amendment essentially on the grounds that it requires additional determinations to be made by the Commodity Credit Corporation. While it is drafted as a limitation, the amendment does require the Commodity Credit Corporation to undertake computations and additional duties not now demonstrably required by law. The amendment would require procedures to be put into effect that are not now required.

The Chair, therefore, sustains the point of order.

Prohibiting Disposal of Surplus Agricultural Land

§ 57.17 An amendment to a general appropriation bill prohibiting the use of funds therein for the General Services Administration to dispose of U.S.-owned agricultural land declared surplus was ruled out as legislation requiring the finding that surplus U.S.-owned lands are "agricultural", where the law cited by the proponent of the amendment defining that term was not applicable to the GSA.

On Aug. 20, 1980,⁽⁷⁾ during consideration in the Committee of the Whole of H.R. 7593 (Department of Treasury and Postal Service appropriation bill), a point of order

7. 126 CONG. REC. 22156, 22158, 96th Cong. 2d Sess.

was sustained against the following amendment:

The Clerk read as follows:

Amendment offered by Mr. [Donald J.] Pease [of Ohio]: Page 27, after line 17, insert the following new section:

Sec. 4. None of the funds appropriated by this title may be used by the General Services Administration before January 1, 1981, to dispose of any United States owned agricultural land which is determined by the Administrator of the General Services Administration to be surplus. . . .

Mr. JOHN L. BURTON [of California]: Mr. Chairman, I insist on my point of order, that it is legislation on an appropriation bill. As the distinguished gentleman from Ohio said, if we want to change policy, it explicitly places new duties on the GSA to have them make investigations, compile evidence, make a determination, is this agricultural land or not, as discussed in the colloquy between the gentleman from Vermont and the gentleman from Ohio.

There is no definition of agricultural land as it goes in the hierarchy of how the GSA has to do business. This would change their whole way of doing business.

For instance, under the present law there are airports, and airports have a certain top priority. If, in fact, part of the land around that airport was used for such things as hay cropping, they would then have to make a determination at each and every airport, is there hay cropping here before we can turn this over to a local community for a dollar? . . .

Mr. PEASE: . . . We have had any number of amendments similar to this

before us which have been upheld by the Chair. This does not impose new duties on the Administrator of GSA. It merely prohibits him from using any of the funds in this bill to dispose of U.S. owned agricultural land.

There is a definition in the statute in the Agricultural Foreign Investment Disclosure Act of agricultural land.

Mr. Chairman, in the Agricultural Foreign Investment Disclosure Act of 1979 there is a definition of agricultural land. It says under section 3508, definitions:

For the purposes of this chapter, the term "agricultural land" means any land located in any one or more States and used for agricultural, forestry or timber production purposes.

In other words, it is not sufficient that it would be suitable for, it must be used or in the process of being used for agricultural purposes under the definition in the existing law.

MR. JOHN L. BURTON: If I may, Mr. Chairman, that is in the law. The Administrator of GSA would have to look through every piece of property in its jurisdiction, in its inventory and then see if it fits the statute of law. It is not under their law, it is defined and it is in another code section, and they would have to go through every piece of surplus property to make this determination. That is certainly an added burden on them.

THE CHAIRMAN:⁽⁸⁾ The Chair is prepared to rule. The Chair is of the opinion . . . that there is nothing in the Federal Property and Administration Services Act which would confer au-

thority on GSA to determine whether certain U.S. owned lands are agricultural lands, and the Chair would sustain the point of order.

The statute cited by the gentleman from Ohio contains a definition under title 7, United States Code, with respect to agricultural land owned by foreigners and reported to the Secretary of Agriculture, and not to federally owned land.

Parliamentarian's Note: Where terms used in a purported limitation are challenged because of their ambiguity or indefiniteness, the burden is on the proponent of such intended limitation to show that no new duties would arise in the course of applying the terms thereof.

§ 58. Commerce

Authorization for Sales of Scientific Reports

§ 58.1 An amendment to the Departments of State, Justice, Commerce, and the Judiciary appropriation bill authorizing the Secretary of Commerce upon request of any organization or individual to reproduce any scientific or technical report and to sell such reproduction at a cost to be determined by the Secretary was held to be legislation on an appropriation bill and not in order.

8. Richardson Preyer (N.C.).

On Mar. 5, 1948,⁽⁹⁾ during consideration in the Committee of the Whole of a general appropriation bill (H.R. 5607), a point of order was raised against the following provision:

The Clerk read as follows:

Amendment offered by Mr. [Walter C.] Ploeser [of Missouri]: On page 56, after line 5, insert the following paragraph:

"Technical and scientific services: For necessary expenses in the performance of activities and services relating to the collection, compilation, and dissemination of technological information as an aid to business in the development of foreign and domestic commerce, including personal services in the District of Columbia; not to exceed \$25,000 for services as authorized by section 15 of the act of August 2, 1946 (5 U.S.C. 55a), and not to exceed \$50,000 for printing and binding, \$520,000, of which \$20,000 shall be transferred to the appropriation 'Salaries and expenses' under the Office of the Secretary: *Provided*, That the Secretary is authorized, upon request of any public or private organization or individual, to reproduce by appropriate process, independently or through any other agency of the Government, any scientific or technical report, document, or descriptive material, foreign or domestic, which has been released for public dissemination, and to sell such reproductions at a price not less than the estimated total cost of reproducing and disseminating same as may be determined by the Secretary, the moneys received from such sale to be deposited in a special account in the Treasury, such account to be avail-

able for reimbursing any appropriation which may have borne the expense of such reproduction and dissemination and making refunds to organizations and individuals when entitled thereto."

MR. [KARL] STEFAN [of Nebraska]: Mr. Chairman, I reserve a point of order against the amendment. . . .

THE CHAIRMAN:⁽¹⁰⁾ Does the gentleman from Nebraska insist on his point of order?

MR. STEFAN: Yes, Mr. Chairman.

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

MR. [J. VAUGHAN] GARY [of Virginia]: Mr. Chairman, I wish to be heard on the point of order. . . .

May I say that a point of order was raised against this item last year and it was eliminated on the point of order. At that time, however, the Department was engaged in some research which it was doing, in which it farmed out certain projects for research to the various colleges and institutions. It was not doing original research but was using other available research agencies to make the research for them. When, however, a point of order was raised in the House the research activities were eliminated.

The Office is now engaged only in furnishing technical and scientific information to business. The authority for the Department of Commerce to engage in such activities reads as follows:

It shall be the province and duty of the Bureau of Foreign and Domestic Commerce, under the direction of the Secretary of Commerce, to foster, promote, and develop the various

9. 94 CONG. REC. 2233, 2234, 80th Cong. 2d Sess.

10. Carl T. Curtis (Nebr.).

manufacturing industries of the United States, and markets for the same at home and abroad, domestic and foreign, by gathering, compiling, publishing, and supplying all available and useful information concerning such industries and such markets, and by such other methods and means as may be prescribed by the Secretary of Commerce or provided by law.

It is our contention that this is just exactly what the particular office is doing and that under the above language its activities are authorized.

THE CHAIRMAN: Does the gentleman from Nebraska desire to be heard?

MR. STEFAN: No, Mr. Chairman; I ask that a ruling be made.

THE CHAIRMAN: The Chair is ready to rule.

It is the opinion of the Chair that the amendment does contain legislation and, therefore, the Chair sustains the point of order. .

Authority to Terminate Employment

§ 58.2 Language in a general appropriation bill providing that the Secretary of Commerce may, in his discretion, terminate the employment of any officer or employee of the Department of Commerce whenever he shall deem such termination necessary or advisable in the interests of the United States, was conceded to be legislation on an appropriation bill and held not in order.

On Apr. 21, 1950,⁽¹¹⁾ during consideration in the Committee of the Whole of a general appropriation bill (H.R. 7786), a point of order was raised against the following provision:

The Clerk read as follows:

Sec. 305. Notwithstanding the provisions of section 6 of the act of August 24, 1912 (37 Stat. 555), or the provisions of any other law, the Secretary of Commerce may, in his absolute discretion, during the current fiscal year, terminate the employment of any officer or employee of the Department of Commerce whenever he shall deem such termination necessary or advisable in the interests of the United States.

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN:⁽¹²⁾ The gentleman will state it.

MR. MARCANTONIO: Mr. Chairman, I make a point of order against section 305 for the same reasons as I did yesterday. I do not want to be repetitious. It is legislation on an appropriation bill.

THE CHAIRMAN: Does the gentleman from New York [Mr. Rooney] desire to be heard?

MR. [JOHN J.] ROONEY: Mr. Chairman, this is the exact language of the so-called McCarran rider which was stricken yesterday by the Chair on a point of order raised by the gentleman from New York [Mr. Marcantonio] to the provisions of the Department of State portion of the pending bill.

11. 96 CONG. REC. 5539, 5540, 81st Cong. 2d Sess.

12. Jere Cooper (Tenn.).

Under the circumstances and as much as I dislike to do so, I must concede that the language is exactly the same and further concede that the Chair is expected to rule today as it did yesterday. But I do hope that when we come back to the House with this bill after a conference with the other body that the provisions of this rider will be again contained therein because the Department of Commerce has been shown to need the provisions of the McCarran rider even more so than the Department of State so that the Secretary of Commerce can summarily dismiss any employee who is connected with subversive activities.

THE CHAIRMAN: The gentleman from New York [Mr. Marcantonio] makes the point of order against section 305, page 84, on the ground it contains legislation on an appropriation bill which is in violation of the rules of the House. The gentleman from New York [Mr. Rooney] concedes that this is the same language as contained in the provision of the pending bill relating to the State Department on which a similar point of order was made on yesterday.⁽¹³⁾

The Chair has examined the language. It appears clearly that there is legislation included in this section of the pending bill. The rules of the House clearly provide it is not in order for legislation to be included in an appropriation bill and, as stated on the same question presented yesterday, the Chair has no alternative other than to sustain the point of order.

The Chair sustains the point of order.

13. See §59.14, *infra*, for the ruling referred to.

Regulations of the Secretary

§ 58.3 Language in an appropriation bill providing that appropriations for the Department of Commerce available for salaries and expenses shall be available "in accordance with regulations prescribed by the Secretary," for attendance at meetings of organizations concerned with the activities for which the appropriations are made, was held to be legislation and not in order.

On Apr. 21, 1950,⁽¹⁴⁾ during consideration in the Committee of the Whole of a general appropriation bill (H.R. 7786), a point of order was raised against the following provision:

The Clerk read as follows:

Sec. 304. Appropriations of the Department of Commerce available for salaries and expenses shall be available, in accordance with regulations prescribed by the Secretary, for attendance at meetings of organizations concerned with the activities for which the appropriations are made.

MR. [KENNETH B.] KEATING [of New York]: Mr. Chairman, I make a point of order against section 304 on the ground that it is legislation on an appropriation bill and requires additional duties of the Secretary of Commerce.

14. 96 CONG. REC. 5537, 81st Cong. 2d Sess.

THE CHAIRMAN:⁽¹⁵⁾ Does the gentleman from New York [Mr. Rooney] desire to be heard on the point of order?

MR. [JOHN J.] ROONEY: Yes, Mr. Chairman.

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

MR. ROONEY: Mr. Chairman, it is the contention of the committee that the language contained in section 304 of the proposed bill, page 84, is required by the provisions of five United States Code, section 83.

THE CHAIRMAN: Does the gentleman from New York [Mr. Keating] desire to be heard on the point of order?

MR. KEATING: Yes, Mr. Chairman.

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

MR. KEATING: Either this section 304 is necessary or it is not necessary. If it is not necessary and adds nothing, then there is no reason for it; if it does add something, in the way of duties conferred on the Secretary of Commerce, then it is necessarily legislation in an appropriation bill. All of line 14 of section 304 requires additional duties on the part of the Secretary of Commerce. The entire section is legislation in this bill.

My attention has been called to this section of the United States Code, referred to by the gentleman from New York [Mr. Rooney], which is general in its terms but does not cover the duties set forth in section 304, which are in addition to those provided in the code. They are discretionary duties.

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

The Chair has examined the section, and also has examined the provisions of the law found in section 83, title V of the United States Code, which appear to the Chair to be ample authority for the provision included in this section.

However, the Chair does invite attention to the language appearing in line 14 which reads: "in accordance with regulations prescribed by the Secretary." It would appear from that language that this would impose additional duties and confer additional authority on the Secretary. It would to that extent constitute legislation on an appropriation bill.

For the reason stated, the Chair sustains the point of order.

Parliamentarian's Note: Compare this ruling with § 52.28, supra. In the 1950 precedent, there was a requirement for the issuance of regulations, rather than discretionary authority given for the issuance thereof, and § 304, at issue here also was inadmissible as affecting other funds of the department. It should be noted that 5 USC § 4110 specifically authorizes appropriations for attendance at any meetings necessary to improve an agency's efficiency. See also 5 USC § 5946. Where the law contemplates inclusion of certain language in an appropriation bill, such language, of course, is not legislation. For general discussion of provisions in law that authorize inclusion of specified language in appropriation bills, see § 26, supra.

15. Jere Cooper (Tenn.).

Coast Guard; Earmarking Funds for Unauthorized Project

§ 58.4 To a paragraph in a general appropriation bill containing funds for operating expenses of the Coast Guard, an amendment directing the use of additional funds for the preparation of a report by the Coast Guard on search and rescue units was held to impose new duties on federal officials and was ruled out as legislation in violation of Rule XXI clause 2.

On June 20, 1973,⁽¹⁶⁾ during consideration in the Committee of the Whole of the Department of Transportation appropriation bill (H.R. 8760), a point of order was raised against the following amendment:

THE CHAIRMAN:⁽¹⁷⁾ The gentleman from California reserves a point of order on the amendment.

The Clerk read as follows:

Amendment offered by Mr. [Guy A.] Vander Jagt [of Michigan]: Page 3, line 11, strike out "\$543,800,000" and insert in lieu thereof "\$544,400,000".

And on page 3, line 12, insert immediately after "reduction" the following: ", and of which \$600,000

shall be applied to the preparation of a report by the Coast Guard with respect to the closing of certain search and rescue units during 1973, and to the reopening and operation of any search and rescue unit determined by such report to be desirable for the maintenance of an effective search and rescue capability." . . .

MR. [JOHN J.] MCFALL [of California]: . . . Mr. Chairman, I renew my point of order on the basis that the language of the second paragraph of the gentleman from Michigan's amendment is legislation on an appropriation bill.

THE CHAIRMAN: Does the gentleman from Michigan wish to repond?

MR. VANDER JAGT: Thank you, Mr. Chairman.

[To enable the Coast Guard] to carry out the intent of the committee and repond, [it] is helpful to have that additional language in.

However, since we are making legislative history as to what exactly we are talking about in terms of this \$600,000 item, if the gentleman from California's point of order is sustained, I have a substitute amendment at the desk.

THE CHAIRMAN: The Chair will rule on the point of order.

The gentleman's amendment clearly imposes new duties on the Coast Guard which would, in effect, constitute legislation in an appropriation bill in violation of clause 2, rule XXI.

The Chair sustains the point of order of the gentleman from California.

Export Embargoes; Requiring Determinations of Rationale for Imposition

§ 58.5 A substitute amendment to a general appropriation

16. 119 CONG. REC. 20530, 20531, 93d Cong. 1st Sess.

17. John M. Murphy (N.Y.).

bill precluding the use of funds therein to carry out embargoes on export of agricultural products determined by the Secretary of Agriculture to have been imposed as the result of a designated Presidential embargo on exports to one country was ruled out as legislation in violation of Rule XXI clause 2, imposing on that official new duties not required by existing law.

On July 22, 1980,⁽¹⁸⁾ during consideration in the Committee of the Whole of the Departments of State, Justice, Commerce, and the Judiciary appropriation bill (H.R. 7584), a substitute amendment was ruled out of order as indicated below:

MR. [MARK] ANDREWS of North Dakota: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Andrews of North Dakota: On page 43, after line 5, insert the following new section:

“Sec. 605. 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.”

MR. [TOM] HARKIN [of Iowa]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Harkin as a substitute for the amendment offered by Mr. Andrews of North Dakota: Page 43, after line 5, insert the following new section:

Sec. 605. None of the funds appropriated by this Act may be used to carry out or enforce any licensing requirement for the export of any agricultural commodity or product which, as determined by the Secretary of Agriculture, was imposed because of the reduction in the sales of agricultural commodities and products to the Soviet Union announced by a presidential memorandum to the Secretary of Commerce, dated January 7, 1980. . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: I make a point of order on two grounds. First of all, it is not germane to this bill because it makes the determination of the matter the province of the Secretary of Agriculture, which is not covered in this legislation. This is not for the Department of Agriculture.

Second, it goes beyond the usual amendment limitation on an appropriation bill, requiring determinations to be made and duties to be performed that may not be authorized at this time in law. For both reasons I think the amendment is out of order. . . .

MR. HARKIN: Mr. Chairman, I believe the gentleman from Maryland (Mr. Bauman) misreads the amendment. The determination was already made by the Secretary of Agriculture in the Federal Register, volume 45, No. 6, dated January 9, 1980. There is a Presidential memorandum to the Secretary of Commerce in which the President has directed the Secretary of Commerce, in consultation with the Secretary of Agriculture and other appropriate officials, to take immediate

18. 126 CONG. REC. 19087-89, 96th Cong. 2d Sess.

action under the Export Administration Act to terminate shipments of agricultural commodities and products, including wheat and corn, to the Soviet Union.

Therefore, the determination by the Secretary of Agriculture has already been made; it is not to be made in the future. . . .

MR. BAUMAN: Mr. Chairman, I will simply point out if that is the intention of the gentleman, his drafting is imperfect because it says that none of the funds appropriated under this act, which will take effect for fiscal year 1981, beginning October 1, may be used for any licensing requirement. That definitely encompasses future determinations and does not simply go to past determinations. That, I think, is well beyond any limitation that is appropriate to an appropriations bill. . . .

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

The gentleman from Maryland makes a point of order against the substitute amendment for the amendment offered by the gentleman from North Dakota (Mr. Andrews) on the grounds, first, that it is not germane to the original amendment of the bill; second, that it imposes additional duties and hence it is not in accordance with the rules.

It is the opinion of the Chair the amendment does appear to impose upon the Secretary of Agriculture the responsibility not only of consulting with the Secretary of Commerce but evaluating whether licensing requirements for export of agricultural commodities were imposed for certain rea-

sons. This is a duty not demonstrably imposed upon the Secretary of Agriculture by existing law and hence in the opinion of the Chair does constitute an additional duty.

The Chair does find, however, that the substitute is germane, but on the basis of the second objection, upholds the point of order and rules that the amendment is out of order.

Line-of-business Data; Restriction on Discretion to Collect

§ 58.6 Language in a paragraph of a general appropriation bill containing funds for the Federal Trade Commission “for the purpose of collecting line-of-business data . . . from not to exceed 250 firms” was conceded to directly interfere with the discretionary authority of the FTC—a restriction on the scope of the investigation rather than a limitation on availability of funds—and was ruled out in violation of Rule XXI clause 2.

On June 21, 1974,⁽²⁰⁾ the principle was applied that while it is in order on a general appropriation bill to limit the availability of funds therein for part of an authorized purpose while appropriating for the remainder of it, language which restricts not the

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

20. 120 CONG. REC. 20600, 93d Cong. 2d Sess.

funds but the discretionary authority of a federal official administering those funds may be ruled out as legislation. The proceedings are discussed in § 51.18, *supra*.

Federal Trade Commission; Prohibiting Funds for Regulation of Advertising

§ 58.7 To a general appropriation bill from which all funds for the Federal Trade Commission had been stricken as unauthorized, an amendment prohibiting the use of all funds in the bill to limit advertising of (1) food products containing ingredients found safe by the Food and Drug Administration or considered “generally recognized as safe”, or not containing ingredients found unsafe by the FDA, and (2) toys not declared hazardous or unsafe by the Consumer Product Safety Commission, was held to impose new duties upon the Federal Communications Commission (another agency funded by the bill) to evaluate findings of other federal agencies—duties not imposed upon the FCC by existing law.

On June 14, 1978,⁽¹⁾ during consideration in the Committee of the Whole of H.R. 12934 (Departments of State, Justice, Commerce, and the Judiciary appropriation bill), a point of order was sustained against the following amendment:

MR. [MARK] ANDREWS of North Dakota: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Andrews of North Dakota: On page 51 after line 16, insert the following:

Sec. 605. Except for funds appropriated to the Judiciary in title IV of this act, no part of any appropriation contained in this act may be used to pay the salary or expenses of any person to limit the advertising of: (1) any food product that contains ingredients that have been determined to be safe for human consumption by the Food and Drug Administration or are considered to be “Generally Recognized as Safe” (GRAS) and does not contain ingredients that have been determined to be unsafe for human consumption by the FDA; (2) any toy which has not been declared hazardous or unsafe by the Consumer Product Safety Commission. . . .

MR. [BOB] ECKHARDT [of Texas]: The amendment is legislation on an appropriation bill, and as such is subject to a point of order under rule XXI, clause 2. . . .

. . . [T]his amendment was directed at the Federal Trade Commission section of the bill which has come out. Therefore, I would also offer alter-

1. 124 CONG. REC. 17644-47, 95th Cong. 2d Sess.

natively or additionally, the point of order that this is not germane to the bill as it is now before us. . . .

. . . I should primarily like to speak on the point of order based on the proposition that I just read, that is that this constitutes legislation on an appropriations bill and gives to officers of the Government very, very large additional duties as the result of the passage of this amendment, should it be passed.

I point primarily to the case which I believe is directly in point. On June 21, 1974, there was a point of order made by the gentleman from California (Mr. Moss) to a provision in the appropriations bill at that time, section 511. The gentleman from California (Mr. Moss) asserted that the language would impose additional duties on every agency subject to the bill and was legislation on an appropriation. The language of the section was as follows:

Except as provided in existing law, funds provided in this act shall be available only for the purposes for which they are appropriated.

Mr. Moss correctly pointed out that if that provision were sustained, it would be necessary in the use of any funds by an agency involved to go back and show that the Appropriations Committee had addressed the specific object of the use of those funds. . . .

The Chair ruled as follows:

The Chair is prepared to rule on the point of order. If the language means what the gentleman from Mississippi now says it does, then the language is a nullity because it just repeats existing law. The Chair is of the opinion, though, that there is a possibility, as earlier indicated during general debate and as sug-

gested by the gentleman from California, that the amendment imposes an additional burden, and the Chair, therefore, sustains the point of order. . . .

The Food and Drug Administration does not list food products as safe or unsafe. The Food and Drug Administration only determines whether or not ingredients in food products are safe or unsafe. Therefore, if this restriction were placed in law, it would be necessary for an agency like the Federal Communications Commission, when it is determining whether or not funds might be used in order to take some action respecting unsafe foods, to look to see what ingredients were included in the particular food involved. . . .

The Consumer Product Safety Commission determines what minimum design or what minimum standards, performance standards, are necessary in order for a toy to be permitted to go on the market. . . .

The point, though, is that the Commission does not establish that this particular toy is unsafe. If we pass this restriction, we would place the burden on the FTC to go in and look at every toy and then apply the standards of the Consumer Product Agency to those toys to find out whether they could be advertised.

So, Mr. Chairman, I think this is a classic example of placing on every agency to whom this restriction would apply very extensive duties beyond that which they are now called upon to exercise. . . .

MR. [NORMAN D.] DICKS [of Washington]: . . . Mr. Chairman, just to reiterate on this point, this amendment was aimed at limiting the Federal Trade Commission. Now that that sec-

tion has been stricken, the only way it can apply is to the FCC. The FCC does not have to regulate itself for advertising. That jurisdiction falls within the jurisdiction of the Federal Trade Commission.

Therefore, it creates new legal duties for the FCC, which are beyond the scope of an appropriation bill, which makes it legislation within an appropriation bill and, therefore, subject to rule XXI, clause 2.

Also the ruling made by the Consumer Product Safety Commission is accurate. The language does not go to unsafe toys, and they would have additional duties created by this amendment. . . .

THE CHAIRMAN:⁽²⁾ The Chair is prepared to rule.

The gentleman from Texas (Mr. Eckhardt) makes the point of order that the amendment offered by the gentleman from North Dakota (Mr. Andrews) constitutes legislation on an appropriation bill. In addition, he makes the point that because it was drafted originally to be applicable to the Federal Trade Commission and that section of the bill has been stricken, it is no longer germane to the bill.

The Chair does not find it necessary to rule, however, on the point of germaneness.

The amendment would prohibit use of any funds in the bill to limit advertising of food products and toys in relation to which determinations have been made by the Food and Drug Administration and the Consumer Product Safety Commission. As indicated by the arguments made on the point of

order, this bill now contains no funds for the Federal Trade Commission but does contain funds for the Federal Communications Commission. The Chair feels it is necessary to lay that basis in order to determine whether the amendment requires new duties or determinations of a particular agency which are not now required by law.

The Federal Communications Commission has the authority under the law to regulate interstate and foreign communications and transmissions in wire and radio, but existing law contains no mandate that the Commission consider whether food and toy products are safe or unsafe in regulating broadcasts within its jurisdiction. The amendment would disallow funds for the Commission to limit advertising of certain products, even if the purpose for such regulatory limitations was totally unrelated to the safety of the product in question. In considering any proposal to limit advertising of food or toy products, the Commission would be required to first determine the scope and extent of determinations of other agencies on the safety of those products, and it is far from clear whether such determinations are readily available or sufficiently certain to determine whether the limitation would apply in a particular case.

Furthermore, in relation to food products, the Commission would have to determine whether the finished food product contained ingredients which have been declared safe if the Food and Drug Administration had made no determination on the safety of such a finished product.

The Chair would also note that the amendment would prohibit advertising of food products containing ingredients

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

considered to be generally recognized as safe, without specifically indicating whether that determination is to be made by the FDA or by the Federal Communications Commission.

For the reasons stated, the Chair finds that the amendment would impose substantial new duties and requirements on the Federal Communications Commission beyond its authorities under existing law and, therefore, sustains the point of order.

Parliamentarian's Note: Even if FTC funds had remained in the bill, the amendment was overly broad since applying to all funds in the bill and not confined to FTC activities. The paragraph ruled out as unauthorized, *supra*, containing funds for the FTC, included similar language relating to the FTC.

§ 59. Defense and Foreign Relations

Buy-America; Equating Standards of Quality or Performance

§ 59.1 It is not in order on a general appropriation bill to require, as a condition to the availability of funds, the imposition of standards of quality or performance not required by law, whether or not such standards are applicable by law to other programs or activities.

On Nov. 18, 1981,⁽³⁾ an amendment to a general appropriation bill prohibiting the use of funds therein to procure foreign-made items unless their inspection for quality assurance “uses the same standards” which would be required for domestic products by the Department of Defense was ruled out as legislation imposing additional duties absent any showing that existing law already required such inspection of items produced in foreign countries. The proceedings, during consideration of the defense appropriation bill,⁽⁴⁾ were as follows:

Mr. [JIM] DUNN [of Michigan]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dunn: Page 68 after line 15, insert the following:

Sec. 792. None of the funds appropriated in this Act may be available for the procurement of any item manufactured in a foreign country unless, during manufacture, the inspection of such item for quality assurance uses the same standards of inspection during manufacture which would be required by the Department of Defense if such item were manufactured domestically.

MR. DUNN [during the reading]: Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

3. 127 CONG. REC. 28076, 28077, 97th Cong. 1st Sess.

4. H.R. 4995.