

ciliary, construction and supply, research, employee education and training activities, as authorized by law, \$12,596,000: *Provided*, That no part of this appropriation may be used for expenses of any area medical or regional representative offices.

MR. [JOHN P.] SAYLOR [of Pennsylvania]: Mr. Chairman, I make a point of order against the language on page 40, line 8, beginning with the word "*Provided*" through line 10, as being legislation on an appropriation bill.

THE CHAIRMAN:<sup>(9)</sup> Does the gentleman from Texas desire to be heard on the point of order?

MR. [ALBERT] THOMAS [of Texas]: Mr. Chairman, that is purely a limitation on the use of funds. We cannot admit that point of order.

THE CHAIRMAN: . . . The language is clearly a limitation on the use of funds. The point of order is overruled.

## § 79. Other Uses

### *Attorney General's Authority*

**§ 79.1 To a title in a general appropriation bill for the Department of Justice, an amendment providing that "none of the funds appropriated by this title may be used in the preparation or prosecution of any suit or proceeding in any court by or on behalf of the United States (1) against a State of the Union; or (2) against in excess of twenty-five hun-**

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

On Apr. 4, 1952,<sup>(10)</sup> the Committee of the Whole was considering H.R. 7289. The following proceedings took place:

Amendment offered by Mr. [Samuel W.] Yorty [of California]: On page 29, after line 4, insert the following: "Sec. 207. None of the funds appropriated by this title may be used in the preparation or prosecution of any suit or proceeding in any court by or on behalf of the United States (1) against a State of the Union; or (2) against in excess of twenty-five hundred defendants."

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make a point of order against the amendment on the ground that it is legislation grafted on an appropriation bill, and therefore utterly inappropriate. . . . I maintain that that is a restriction on the authority of the officials of the Attorney General and has no place in an appropriation bill. It is [not] the usual limitation upon monies to be expended. It is definitely legislation. . . .

THE CHAIRMAN:<sup>(11)</sup> the Chair is ready to rule. The point of order is made against the amendment on the ground that it is legislation on an appropriation bill. The Chair has had an opportunity to read and analyze the amendment offered by the gentleman from California at page 29, after line 4, inserting the language which has been

10. 98 CONG. REC. 3555, 82d Cong. 2d Sess.

11. Oren Harris (Ark.).

9. Richard Bolling (Mo.).

read. The Chair is of the opinion that the language of the amendment merely places a negative limitation upon the appropriation and is not a restriction upon discretion of officials. Therefore, the amendment does not constitute legislation and the point of order is overruled.

### *Congressional Expenditures*

**§ 79.2 To a legislative appropriation bill, an amendment providing that expenditures for committees of Congress or under the Architect of the Capitol shall be limited to such as are of public record and open for public inspection was held to be a proper limitation on funds in the bill merely descriptive of access procedures pursuant to existing law.**

On Apr. 10, 1964,<sup>(12)</sup> the Committee of the Whole was considering H.R. 10723. A point of order against the following amendment was overruled, as indicated below:

Amendment offered by Mr. Oliver P. Bolton [of Ohio]: On page 26, after line 22, insert the following:

"Sec. 105. The expenditure of any appropriation under this Act by any committee of the Congress or by the Architect of the Capitol shall be limited to those committees and to those funds and contracts supervised by the

Architect of the Capitol where such expenditures are a matter of public record and available for public inspection."

MR. [THOMAS J.] STEED [of Oklahoma]: Mr. Chairman, I make a point of order against the amendment, but will reserve the point of order so the gentleman from Ohio may explain it. . . .

THE CHAIRMAN:<sup>(13)</sup> Does the gentleman from Oklahoma insist on his point of order?

MR. STEED: Mr. Chairman, in regard to the point of order. . . .

The 1950 act relating to audits by the General Accounting Office is quite specific as to what auditing shall be done in regard to the legislative and judicial branches of the Government. Where it is mandatory for the executive branch activities, it is subject to agreement as to on-site audits in the legislative and judicial branches.

It seems to me any action we take here today on this appropriation bill which affects that would be in effect legislating—even though it may be called a limitation in an appropriation bill. It would be a policy change—one which ought to be considered by a committee in the regular way. . . .

MR. OLIVER P. BOLTON: It is my error, Mr. Chairman, I apologize for not showing you the substitute. The substitute does not contain any reference to the General Accounting Office. It is a pure limitation upon the use of funds appropriated in this act to these committees and to the Architect of the Capitol only where their records are a matter of public record. . . .

12. 110 CONG. REC. 7642, 7643, 88th Cong. 2d Sess.

13. Clark W. Thompson (Tex.).

THE CHAIRMAN: The Chair is prepared to rule.

The amendment reads very clearly that the expenditures are under this act—and it is those expenditures that are limited.

The Chair therefore believes it is a limitation on an appropriation bill and the Chair overrules the point of order.

***Persons Claiming Executive Privilege or Holding Two Offices***

**§ 79.3 An amendment prohibiting the compensation of certain persons from funds in an appropriation bill and describing the persons to whom the restriction applied was held in order as a limitation on the use of the funds where it did not directly curtail the discretionary authority of executive officials or impose affirmative duties upon them.**

On June 22, 1972,<sup>(14)</sup> during consideration in the Committee of the Whole of a general appropriation bill (H.R. 15585), a point of order was raised against the following amendment:

MR. [WILLIAM S.] MOORHEAD [of Pennsylvania]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

14. 118 CONG. REC. 22102, 92d Cong. 2d Sess.

Amendment offered by Mr. Moorhead: Page 38 insert between line 6 and line 7 new section:

“No part of the appropriations made by this Act shall be expended for the Compensation of any person other than those designated by the President, not to exceed ten persons employed in the White House Office, who refuses to appear before any committee of the Congress solely on the grounds of ‘executive privilege’; nor shall any part of the appropriations made by this Act be expended to compensate any employee of the Executive Office of the President who is employed in or designated as holding two positions in such Office.”

MR. [FRANK T.] BOW [of Ohio]: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN:<sup>(15)</sup> The gentleman will state his point of order.

MR. BOW: Mr. Chairman, this is an attempt to have a limitation. We find the purpose is legislative, in that it is the intent to restrict the executive direction, and can be fairly termed a change in policy rather than a matter of administration detail. We believe that the point of order should be sustained.

This is an attempt to cut down the number of people who can claim executive privilege. In addition to that, it refers to those who fail to appear upon the request of a committee.

I submit that such an amendment violates not only the spirit of legislation passed but also the Constitution, and the limitation is legislation and not a limitation. . . .

MR. MOORHEAD: . . . Mr. Chairman, I believe that this amendment is in order. It is a limitation on an appro-

15. William S. Monagan (Conn.).

priation. It is not legislation. It does not require any action by anyone. The President is not required to name 10 people. He is not required to do anything under this amendment. Therefore, it is no legislative action; it is merely a limitation.

THE CHAIRMAN: Does the chairman of the subcommittee [Mr. Steed] desire to be heard on the point of order?

MR. [THOMAS J.] STEED [of Oklahoma]: Yes, Mr. Chairman.

A further reason for the fact that this is subject to a point of order is that the amendment says:

Nor shall any part of the appropriations made by this Act be expended to compensate any employee of the Executive Office of the President who is employed in or designated as holding two positions in such Office.

Mr. Chairman, this has been going on. This part of the amendment changes existing policy. It is clearly legislation in an appropriation bill.

MR. BOW: Mr. Chairman, may I be heard further?

In addition to the points I made originally, this creates additional duties. The President would have to designate the people who are limited under this act.

I submit both from the standpoint of legislation and additional duties on the Executive it is subject to a point of order.

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

Reading the amendment, it provides that no part of the appropriations made by this Act shall be expended for the compensation of certain persons. In other words, the amendment contains

descriptions of the persons whose compensation shall be limited: One who refuses to appear before any committee of the Congress and also any employee who in fact is holding two positions.

The Chair does not feel it is incumbent on the Chair to consider the desirability of the language offered. The amendment does not require any additional duties, nor does it affirmatively change policy, and therefore the Chair feels that these are solid limitations on the use of funds in the bill. Such provisions are not legislation on an appropriation bill, so the Chair overrules the point of order.

### *Presidential Emergency Funds*

**§ 79.4 To a bill appropriating emergency funds for the President, an amendment providing that none of the funds appropriated in the bill shall be spent "in violation of the provisions of section 209" of the bill was held to be a limitation restricting the availability of funds and in order.**

On May 25, 1959,<sup>(16)</sup> the Committee of the Whole was considering H.R. 7176, a general government matters appropriation bill. A point of order was raised against the following amendment:

Amendment offered by Mr. [Charles A.] Vanik [of Ohio]: Page 5, line 10,

**16.** 105 CONG. REC. 9012, 86th Cong. 1st Sess.

strike out the period, insert a colon, and add the following: "*Provided*, That none of the funds appropriated in this Act shall be spent in violation of the provisions of section 209."

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

THE CHAIRMAN:<sup>(17)</sup> Does the gentleman from Ohio desire to be heard on the point of order?

MR. VANIK: No, Mr. Chairman.

THE CHAIRMAN: The Chair is prepared to rule.

The language of the amendment offered by the gentleman from Ohio specifically places a limitation upon the use of funds appropriated in this act. It is, therefore, a limitation and is not subject to a point of order.

The Chair overrules the point of order.<sup>(18)</sup>

### *Printing Silver Certificates*

#### **§ 79.5 To a paragraph in an appropriation bill making**

17. Carl Albert (Okla.).

18. *Parliamentarian's Note*: Section 209 of the bill provided that no part of any appropriation contained in the Act, "or of the funds available for expenditure by any individual, corporation, or agency included in [the] Act," be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress. While Sec. 209 might itself have been legislation since not confined to funds in the bill, the amendment offered in this instance was properly restricted to funds in the bill.

**money available for the purchase of distinctive paper for U.S. securities, an amendment providing that no funds appropriated shall be used for the printing of silver certificates or the purchase of paper therefor was held to be a proper limitation and in order.**

On Apr. 28, 1937,<sup>(19)</sup> the Committee of the Whole was considering H.R. 6730, a deficiency appropriation bill. An amendment was offered and ruled on as follows:

Distinctive paper for United States securities: For an additional amount for distinctive paper for United States currency and Federal Reserve bank currency, fiscal year 1937, including the same objects specified under this head in the Treasury Department Appropriation Act, 1937, \$126,600.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Taber: On page 31, line 24, after the figures "\$126,000", strike out the period insert a comma and the following: "*Provided, however*, That no funds appropriated in this act shall be used for the printing of silver certificates or the purchase of paper therefor."

MR. [CLIFTON A.] WOODRUM [of Virginia]: Mr. Chairman, a point of order. I think the amendment is subject to a

19. 81 CONG. REC. 3919, 75th Cong. 1st Sess.

point of order. There is nothing provided here for the printing of silver certificates. The basic law covers that. This is to provide for the purchase of paper for currency. . . .

MR. TABER: Mr. Chairman, this is a clear limitation under the Holman rule. It is a clear limitation that is entirely germane, preventing the use of funds carried in this act for the purpose of buying paper or printing silver certificates. Silver certificates are printed and paper is bought for that purpose out of this particular item. A limitation preventing the use of it for that purpose is clearly in order.

THE CHAIRMAN: <sup>(20)</sup> . . . The Chair is constrained to hold that the amendment is a limitation upon the money appropriated in the bill, and therefore overrules the point of order.

### *Readmission of Aliens*

**§ 79.6 An amendment to a general appropriation bill providing that “No part of any appropriation [in the bill] for the Immigration and Naturalization Service shall be expended for any expense incident to any procedure by suggestion or otherwise, for the admission to any foreign country of any alien unlawfully in the United States for the purpose of endeavoring to secure a visa for readmission to the United States, or for the salary of any em-**

**ployee charged with any duty in connection with the readmission to the United States of any such alien without visa” was held to be a proper limitation on an appropriation bill and in order.**

On Feb. 18, 1938,<sup>(1)</sup> the Committee of the Whole was considering H.R. 9544, an appropriation bill for the Departments of State, Justice, Commerce, and Labor. The Clerk read as follows:

Amendment offered by Mr. [Malcolm C.] Tarver [of Georgia]: On page 104, after line 25, insert a new paragraph, as follows:

“No part of any appropriation contained in this act for the Immigration and Naturalization Service shall be expended for any expense incident to any procedure by suggestion or otherwise, for the admission to any foreign country of any alien unlawfully in the United States for the purpose of endeavoring to secure a visa for readmission to the United States, or for the salary of any employee charged with any duty in connection with the readmission to the United States of any such alien without visa.”

MR. [SAMUEL] DICKSTEIN [of New York]: Mr. Chairman, I make the same point of order. This comes right back to the point I made originally, that this provision deals with the present immigration laws and is legislation on an appropriation bill. It changes our present act, which contains the provi-

20. Fred M. Vinson (Ky.).

1. 83 CONG. REC. 2174, 2175, 75th Cong. 3d Sess.

sion that it is mandatory upon the officials of the Department of Labor to advise an alien of his status, whether he is legally or illegally in this country. This provision seems to suggest that even a suggestion or an inference, even a suggestion over the phone, would be a violation of the law, and the men who are on the pay roll of the Government would be penalized. I respectfully submit that the language offered as the amendment to the new section is absolutely in the same category, and that it is not germane to the present bill or to the section now under consideration.

THE CHAIRMAN:<sup>(2)</sup> The Chair is ready to rule.

. . . The Chair feels he is bound by precedents which have been established for a long time in this House and have been ruled upon by many occupants of the chair more distinguished than he.

The fact that the failure to appropriate money to carry out the purposes of an act may work an actual hardship in the enforcement of that act or may even effect the practical repeal of certain provisions of the act is entirely within the discretion of Congress itself. Congress does not have to appropriate any money for laws which have been authorized by bills reported from legislative committees. As long ago as 1896 Nelson Dingley, Chairman of the Committee of the Whole House, ruled as follows, and I read from page 47 of Cannon's Procedure in the House of Representatives:

The House in Committee of the Whole House has the right to refuse to appropriate for any object either

in whole or in part, even though that object may be authorized by law. That principle of limitation has been sustained so repeatedly that it may be regarded as a part of the parliamentary law of the Committee of the Whole.

Therefore, the Chair is unable to agree with the contention of the gentleman from New York and overrules the point of order.

### *Certain Proposed Regulations Not To Be Enforced*

**§ 79.7 To a proposition in an appropriation bill appropriating a lump sum for salaries and other expenses of the Securities and Exchange Commission, an amendment providing that no part of it shall be used to promulgate or enforce certain rules or regulations precisely described in the amendment was held to be a proper limitation restricting the availability of funds and in order.**

On Feb. 17, 1943,<sup>(3)</sup> the Committee of the Whole was considering H.R. 1762, an independent offices appropriation bill. The following amendment was held to be in order:

Amendment offered by Mr. [Wesley E.] Disney [of Oklahoma]: Page 48, line 3, insert a colon, and add the following:

**3.** 89 CONG. REC. 1070-72, 78th Cong. 1st Sess.

2. Frank H. Buck (Calif.).

"No part of this appropriation shall be used to promulgate or enforce any rule or regulation known as the proposed rule or regulation F-9 and F-10, and providing in substance (1) the engineers' reports shall be mandatory, (2) require the disclosure of the cost of purchase price, and (3) an abridgment of the right to appoint an agent, all with reference to the sale of oil and gas royalties and lease under the jurisdiction of the Oil and Gas Division of the Securities and Exchange Commission." . . .

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

I think the amendment is so indefinite it would be impossible for the Chair or anyone else to know whether this is a limitation on anything or what it limits. The gentleman says the funds herein are not to be used for the purpose of enforcing certain orders known as so-and-so and so-and-so. Even after listening to our friend, to whom we always listen with pleasure and profit, those wayfarers who, like myself, are not versed in the parlance of the Securities and Exchange Commission are not able to determine what the amendment means. . . .

MR. DISNEY: I call the attention of the Chair to the fact that this amendment puts a limitation on the use of the funds appropriated.

THE CHAIRMAN:<sup>(4)</sup> The Chair is ready to rule.

The appropriation under consideration involves \$4,000,000 for salaries and other expenses of the Securities and Exchange Commission. A lump sum is thus appropriated. The practice

has grown up of undertaking to limit these lump-sum appropriations by preventing expenditures for particular purposes. The amendment offered by the gentleman from Oklahoma [Mr. Disney] undertakes to limit this appropriation by providing that no part of this appropriation shall be used to promulgate or enforce the three rules and regulations mentioned in his amendment. The Chair holds that the amendment constitutes a limitation and overrules the point of order.

### *Tennessee Valley Authority Services*

#### **§ 79.8 To an appropriation bill, an amendment placing a limitation on the amounts in the bill to be used for personal services in the Tennessee Valley Authority was held to be a proper limitation and in order.**

On Mar. 21, 1952,<sup>(5)</sup> The Committee of the Whole was considering H.R. 7072, an independent offices appropriation bill. An amendment was offered to which a point of order was made and overruled, as indicated below:

Amendment offered by Mr. [Kenneth B.] Keating [of New York]: Page 35, line 24, strike out the period and insert a comma and add the following: "and not to exceed \$99,131,125 of funds available under this section shall be used for personal services."

4. William M. Whittington (Miss.).

5. 98 CONG. REC. 2674, 82d Cong. 2d Sess.

MR. [ALBERT] THOMAS [of Texas]: Mr. Chairman, a point of order.

THE CHAIRMAN:<sup>(6)</sup> The gentleman will state it.

MR. THOMAS: [The provision] is legislation on an appropriation bill. It says "funds available." There are two types of funds available to the TVA—appropriated funds and its own revenues. . . .

THE CHAIRMAN: The Chair is ready to rule.

The Chair is of the opinion that the amendment refers only to funds contained within this section of this bill and is merely a negative limitation, which is in order. Therefore, the Chair overrules the point of order.

### ***State and Local Administration of Grants***

#### **§ 79.9 To a deficiency appropriation bill, an amendment placing a limitation on the amount therein which "may be used for State and local administration" of grants for public assistance was held to be a proper limitation and in order.**

On Feb. 5, 1957,<sup>(7)</sup> The Committee of the Whole was consid-

ering H.R. 4249, a deficiency appropriation bill. The Clerk read as follows:

Amendment offered by Mr. [Henderson L.] Lanham [of Georgia]: Page 5, line 7, after "\$275,000,000," strike out the colon and insert: "*Provided*, That not more than \$15,728,000 of this amount may be used for State and local administration [of grants for public assistance]."

MRS. [EDITH S.] GREEN of Oregon: Mr. Chairman, I make a point of order against the amendment [on the ground that] it is legislation on an appropriation bill.

MR. LANHAM: Mr. Chairman, may I be heard?

THE CHAIRMAN:<sup>(8)</sup> The Chair will be glad to hear the gentleman briefly.

MR. LANHAM: Mr. Chairman, of course, this is a limitation on an appropriation and it is in no sense legislation on an appropriation bill.

THE CHAIRMAN: The Chair has had an opportunity to examine the language of the amendment offered by the gentleman from Georgia [Mr. Lanham] and is of the opinion that the language constitutes a proper limitation on the appropriation contained in the paragraph; therefore, the language is in order and the Chair overrules the point of order.

6. Wilbur D. Mills (Ark.).

7. 103 CONG. REC. 1549, 85th Cong. 1st Sess.

8. Wilbur D. Mills (Ark.).