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of Federal funds. It does not provide for any new power. It is simply a limitation on the expenditure of funds, which clearly is well within the rules of the House. . . .

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Chairman, as we look at section 610, the last clause reads: "except that this limitation shall not apply to private antitrust actions." So the word, "limitation," refers to the entire limitation in section 610 and does not affect the right to bring an action or the right to enforce a judgment.

It is my judgment, therefore, that the language of the bill allows private parties to bring actions under antitrust laws. It also allows the enforcement of outstanding judgments in favor of private parties, and as there is no limitation on the judicial powers, we do not reach the question of courts being affected by this limitation, as was stated in one of the arguments propounded on this point of order.

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

The gentleman from Illinois (Mr. Porter) makes a point of order against section 610 on the ground that it constitutes legislation on an appropriation bill and would limit the power of the courts.

It is the Chair's opinion that the fact that the powers of the courts might be limited by the restrictions on the funds or that the FTC appropriation has been stricken on a point of order, does not in itself constitute legislation, and that the section is indeed only a limitation on expenditure of funds on the bill and as such is proper in this section.

MR. PORTER: Mr. Chairman, does the Chair's ruling indicate, therefore, that the language in section 610 does not affect Federal court jurisdiction over the type of suits described in that section, not including private suits?

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, as I recall, the point of order was in two parts. The Chair has ruled on the first part. I await with some interest the ruling of the Chair on the second part.

THE CHAIRMAN: The Chair had felt that he ruled on both parts. The Chair feels that it is not . . . for the Chair to rule on the effect of the negative limitation on the jurisdiction of the courts. That is a matter for the House and the courts to determine. From a parliamentary standpoint, the limitation is a valid limitation and falls within the rules of the House.

Parliamentarian's Note: Even if FTC funds, no longer in the bill, were the only possible moneys affected, the provision would have been an appropriate denial of use of funds in the bill. But the federal courts were also funded by the bill. The authority of the courts to preside over such actions despite the limitation was a legal issue not for the Chair to decide.

§ 67. Subject Matter: Agriculture

Change in Administrative Policy

§ 67.1 While a limitation may not involve a change of exist-

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

ing law, it may properly effect a change of administrative policy and still be in order (7 Cannon's Precedents § 1694). For example, language in an appropriation bill providing that none of the funds therein shall be used to pay any employee of the Department of Agriculture who serves as a member of the Board of Directors or as an officer of the Commodity Credit Corporation was held to be a limitation and in order.

On May 11, 1960,[16] the Committee of the Whole was considering H.R. 12117, a bill making appropriations for the Department of Agriculture. The Clerk read as follows:

> Sec. 408. No part of the funds appropriated by this Act shall be used to pay the compensation of any employee or officer of the Department, except the Secretary of Agriculture, who, in addition to other regularly assigned responsibilities, serves as a member of the Board of Directors or as an officer of the Commodity Credit Corporation after February 1, 1961.
>
> MR. [PAUL] BROWN of Georgia: Mr. Chairman, a point of order.
>
> THE CHAIRMAN:[17] The gentleman will state it.
>
> MR. BROWN of Georgia: Mr. Chairman, section 408 provides. . . .
>
> This reverses a decision made by the Banking and Currency Committee and the Congress in 1949, when the CCC Charter Act was amended to strike out a similar restriction which had been enacted in 1948. It is, therefore, legislation, and the mere fact it is put in the form of a limitation on the use of funds appropriated by the bill does not save it. As paragraph 1691, volume 7, of Cannon's Precedents of the House of Representatives puts it:
>
> > The purpose rather than the form of a proposed limitation is the proper criterion by which its admissibility should be judged, and if its purpose appears to be a restriction of executive discretion to a degree that may be fairly termed a change of policy rather than a matter of administrative detail it is not in order.
>
> Again in paragraph 1606 of the same volume, the following is found:
>
> > Whenever a purported limitation makes unlawful that which before was lawful or makes lawful that which before was unlawful it changes existing law and is not in order on an appropriation bill.
> >
> > A proper limitation is negative and in the nature of a veto, and when it assumes affirmative form by direction to an executive in the discharge of his duties under existing law it ceases to be a limitation and becomes legislation.
>
> Section 408 in effect requires the Secretary to take affirmative action. To carry out the farm programs financed by CCC, the Secretary would have to appoint new Board members, recruited from private life, to replace the six Department officers other than himself who now serve on the Board. He would

16. 106 CONG. REC. 10053, 10054, 86th Cong. 2d Sess.

17. Paul J. Kilday (Tex.).

also have to recruit and appoint new personnel to serve as officers of the Corporation. This not only means the section constitutes legislation, but also means it is not entitled to the protection of the Holman rule, because it would not save the Government money. On the contrary, it would require hiring new employees at additional expense to the Government. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Georgia [Mr. Brown] makes a point of order against the language in section 408 of the bill on the ground that it constitutes legislation on an appropriation bill.

The Chair has had an opportunity to examine the precedents in this connection, including the precedents to which the gentleman from Georgia has referred and from which he has read. The Chair would also refer to paragraph 1694 of Cannon's Precedents, volume 7, the language being:

> While a limitation may not involve change of existing law or affirmatively restrict executive direction, it may properly effect a change of administrative policy and still be in order.

The Chair has examined additional precedents bearing on this question. The Chair is constrained to hold that section 408 is a restriction on a manner in which the funds can be used, and constitutes a negative limitation, and, therefore, overrules the point of order.

Restriction Effective on Future Enactment of Legislation

§ 67.2 To a bill making appropriations for the Department of Agriculture, including an item for a study of the price spread between farmers and consumer, an amendment providing that no part of these funds may be obligated after enactment of legislation establishing a National Commission on Food Marketing, was held a proper limitation and in order.

On May 19, 1964,[18] the Committee of the Whole was considering H.R. 11202. The Clerk read as follows:

ECONOMIC RESEARCH SERVICE

Salaries and expenses

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; and for analyses of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and

18. 110 CONG. REC. 11388, 11389, 88th Cong. 2d Sess.

analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products; $9,476,000: *Provided,* That not less than $350,000 of the funds contained in this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and consumer: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (5 U.S.C. 574), and not to exceed $75,000 shall be available for employment under section 15 of the Act of August 2, 1946 (5 U.S.C. 55a): *Provided further,* That not less than $145,000 of the funds contained in this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

MR. [PAUL] FINDLEY [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Findley: On page 12, line 24, after the word "consumer" change the colon to a comma and insert the following: "except that no part of the funds appropriated herein may be obligated for this special study subsequent to the enactment of legislation establishing a National Commission on Food Marketing:".

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I reserve a point of order. . . .

THE CHAIRMAN:[19] The time of the gentleman has expired.

Does the gentleman from Mississippi insist on his point of order?

MR. WHITTEN: I insist on my point of order, Mr. Chairman.

THE CHAIRMAN: The gentleman from Mississippi will state his point of order.

MR. WHITTEN: . . . The point of order I make is that this is not a limitation on an appropriation bill as such but is entirely dependent on a contingency that may never occur. For that reason the point of order should be sustained. . . .

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

. . . The Chair . . . is of the opinion that this amendment constitutes a limitation on the funds herein appropriated even though that limitation may be conditioned upon a condition subsequent which may never come into existence and, therefore, overrules the point of order.

Parliamentarian's Note: See 4 Hinds' Precedents § 4004 for an example of a condition subsequent held in order.

Recipients With Income in Excess of Certain Limit

§ 67.3 To an appropriation bill, an amendment providing that none of the funds for the soil conservation program shall be paid to any person having a net income in excess of $10,000 in the previous calendar year was held to be a proper limitation restricting the availability of funds and in order.

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

On May 1, 1952,[20] the Committee of the Whole was considering H.R. 7314, a Department of Agriculture appropriation bill. The Clerk read as follows:

Amendment offered by Mr. [James G.] Fulton [of Pennsylvania]: Page 31, line 13, after the figure $2,500 insert "and none of the funds shall be paid to any person having a net income in excess of $10,000 in the previous calendar year."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I make a point of order against the amendment as being legislation on an appropriation bill. It would require a determination that one's income was or was not beyond $10,000. It is my recollection that a man's income and the amount of his income is not subject to finding out on the part of the Government and I do not believe we could determine it if it were in the legislation. . . .

MR. FULTON: Mr. Chairman, my amendment is simply a limitation as to the persons receiving it. Any person whose total income in the previous calendar year is more than $10,000 will not receive this money. It is a limitation on the payment of money. There is no additional duty placed. After consulting with the gentleman from New York [Mr. Taber] I believe he agrees with me that this is not a further duty and is within the legislation.

The point of order should not be upheld because it is simply a limitation on the payment of money. There are limitations on the payment of money in other bills and this is simply limiting the payment of money.

MR. H. CARL ANDERSEN [of Minnesota]: Mr. Chairman, this goes beyond a limitation and brings in an entirely new principle that is not included in the basic act. It is clearly legislation on an appropriation bill, and, I might add, it is class legislation of the worst kind.

THE CHAIRMAN:[1] The Chair is prepared to rule.

The Chair has studied the amendment and that part of the bill to which it refers and finds that it is a limitation upon the expenditure of money in this bill to any person having an income in excess of a given figure. It is definitely a limitation and under the circumstances the Chair is constrained to overrule the point of order.

Parliamentarian's Note: This precedent is supported by the ruling carried in 7 Cannon's Precedents § 1669 where a limitation on payments to persons receiving pay from another source in excess of a certain amount was held in order.

Rural Electrification, Limiting Funds to Areas of Low Population

§ 67.4 An amendment to the Rural Electrification appropriation providing in part that none of the money appropriated shall be used to finance the construction and operation of generating

20. 98 CONG. REC. 4733, 4734, 82d Cong. 2d Sess.

1. Aime J. Forand (R.I.).

plants, electric transmission and distribution lines in any city, village, or borough having a population in excess of 1,500 inhabitants was held to be a proper limitation on an appropriation bill and in order.

On Mar. 24, 1944,[2] the Committee of the Whole was considering 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:[3] 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

2. 90 CONG. REC. 3105–07, 78th Cong. 2d Sess. See §§ 9 and 22, supra, for discussion of the burden of proof on the issue of whether a provision is authorized by existing law, and the effect of a failure to cite the law relied upon as authorization for provisions in appropriation bills.

3. William M. Whittington (Miss.).

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 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 nonfarm 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: I understood the gentleman to say that the amendment was lifted word for word from the existing law. I have not seen the amendment, Mr. Chairman, in writing, I have only heard it read, but I understood from the reading of the amendment that the

word "only" is in the amendment. 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? . . .

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. . . .

MR. [EARL C.] MICHENER [of Michigan]: As I understand the gentleman's interpretation of the word "only," it is synonymous to saying at that point in his amendment that "this money shall be used for no other purposes than."

MR. BOREN: Exactly.

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 examination 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 lan-

guage 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.

Rural Electrification, Construction

§ 67.5 To a paragraph of the Agriculture Department appropriation bill making appropriations for the Rural Electrification Administration, an amendment providing that "during the period of the war . . . no part of [the appropriation] shall be expended for administrative services which have to do with the construction of any facilities for the production . . . of electric power in any area now receiving central station service" was held germane and a proper limitation and in order.

On Mar. 13, 1942,[4] the Committee of the Whole was considering H.R. 6709. The Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. [Charles I.] Faddis [of Pennsylvania]: Page 88, line 18, after the period at the end of the line, insert a comma and the following: "*Provided*, That during the period of the war in which the United States is now engaged, no part of this money shall be expended for administrative services which have to do with the construction of any facilities for the production or transmission of electric power in any area now receiving central station service."

MR. [JOHN E.] RANKIN of Mississippi: Mr. Chairman . . . .

I call the attention of the Chair to the fact that the duties of the Rural Electrification Administration are already prescribed in existing law. This amendment attempts to change that, which makes it purely legislation on an appropriation bill. Besides, as I pointed out a moment ago, this expense account has nothing whatever to do with the disposition of the money borrowed by the rural electrification cooperatives from the R. F. C. or through the R. F. C. . . .

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, may I offer an observation in connection with argument? The limitation which the gentleman seeks to impose upon the administrative expenses cannot be germane to this paragraph of the bill, which has nothing to do with administrative expenses but merely with the item of loans. The item of administrative expenses has already been passed. . . .

THE CHAIRMAN:[5] The Chair is ready to rule. . . .

The gentleman from Mississippi makes the point of order [that the amendment] is not germane. The Chair feels that the present amendment as distinguished from the former

4. 88 CONG. REC. 2445, 2446, 77th Cong. 2d Sess.

5. Robert Ramspeck (Ga.).

amendment, being limited to the amount proposed to be appropriated for the Rural Electrification Administration, and being a limitation only upon the expenditure of those funds, is in order; therefore, the point of order is overruled.

Agricultural Stabilization and Conservation Service

§ 67.6 To an appropriation bill providing funds for the Agricultural Stabilization and Conservation Service, an amendment specifying that "none of the funds appropriated by this act shall be used during the period ending June 30, 1971 to . . . carry out any 1971 crop-year program under which the total amount of payments to a person . . . would [exceed] $20,000" was held in order as a limitation.

On June 9, 1970,[6] the Committee of the Whole was considering H.R. 17923, a Department of Agriculture general appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301–1393) . . . and laws pertaining to the Commodity Credit Corporation, $152,690,000: . . . *Provided further,* That no part of the funds appropriated or made available under this Act shall be used (1) to influence the vote in any referendum. . . .

MR. [PAUL] FINDLEY [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Findley: On page 23, line 8, after the word "regulations", strike the period, add a colon and the following:

"*Provided further,* That none of the funds appropriated by this act shall be used during the period ending June 30, 1971 to formulate or carry out any 1971 crop-year program under which the total amount of payments to a person under such program would be in excess of $20,000."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I reserve a point of order on the amendment. . . .

THE CHAIRMAN:[7] does the gentleman from Mississippi desire to be heard on his point of order?

MR. WHITTEN: I do, Mr. Chairman.

If the Chair will note, the amendment is offered to a particular section of the bill, but the language provides that "none of the funds appropriated by this act," so it is a limitation, which means it applies to the Commodity Credit Corporation. The Commodity Credit Corporation was created under the laws of Delaware in 1933. It was given the power, it was given the right, and it was given the obligation of mak-

6. 116 CONG. REC. 18997, 18998, 91st Cong. 2d Sess.

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

ing payments, to make loans under the Corporation Control Act, and it was provided that nothing in that act should let the Congress prevent the corporation from discharging its functions. . . .

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

This point was made last year with respect to an amendment offered by the gentleman from Massachusetts (Mr. Conte), which, while not identical, is, in the opinion of the Chair, sufficiently similar to the presently offered amendment, as to govern.

On that occasion the gentleman from Massachusetts offered an amendment which would have provided:

> That no part of the funds appropriated by this Act shall be used to formulate or carry out any price support program (other than for sugar) under which payments aggregating more than $20,000 under all such programs are made to any producer or any crops planted in the fiscal year 1970.

On the basis of previous rulings of the Chair, it is the opinion of the present occupant of the chair, that the amendment offered by the gentleman from Illinois is a limitation on an appropriation bill and is therefore in order.

The point of order is overruled.

Countries Trading With North Vietnam

§ 67.7 To a general appropriation bill, an amendment providing that no funds appropriated therein "shall be used to . . . administer programs for the sale of agricultural commodities" to any nation which sells, or permits ships or aircraft under its registry to transport, materials to North Vietnam, "so long as North Vietnam is governed by a Communist regime," was held a limitation restricting the availability of funds and in order.

On Apr. 26, 1966,[8] the Committee of the Whole was considering H.R. 14596, a Department of Agriculture appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

> Page 36, line 1:
>
> "COMMODITY CREDIT CORPORATION
>
> "*Reimbursement for net realized losses*
>
> "To partially reimburse the Commodity Credit Corporation for net realized losses sustained but not previously reimbursed, pursuant to the Act of August 17, 1961 (15 U.S.C. 713a–11, 113a–12), $3,500,000,000."

MR. [PAUL] FINDLEY [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Findley: On page 36, on line 6 strike the period, insert a colon and the following:
>
> "*Provided*, That no funds appropriated by this Act shall be used to formulate or administer programs

8. 112 CONG. REC. 8969, 8970, 89th Cong. 2d Sess.

for the sale of agricultural commodities pursuant to titles I or IV of Public Law 480, Eighty-third Congress, as amended, to any nation which sells or furnishes or which permits ships or aircraft under its registry to transport to North Vietnam any equipment, materials or commodities, so long as North Vietnam is governed by a Communist regime.". . .

THE CHAIRMAN:[9] Does the gentleman from Mississippi insist upon his point of order?

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I do.

THE CHAIRMAN: The gentleman will state it.

MR. WHITTEN: Mr. Chairman, it is legislation on an appropriation bill in that it imposes new duties, new responsibilities, and determinations beyond the ability of the Secretary of Agriculture, who administers this program, to determine. . . .

MR. FINDLEY: Mr. Chairman, I feel that this amendment is in order for precisely the same reason as the amendment just ruled upon [that it seeks to impose an express limitation on the funds appropriated by the pending bill]. It does provide a limitation on funds under certain conditions, and therefore certainly is completely within the rule.

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

The Chair would state that it is satisfied that established precedents in accord with the pending question justifies its holding the language of the proposed amendment as a limitation on the appropriation, and therefore overrules the point of order.

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

No Funds for Purpose Prohibited by State Law

§ 67.8 To a general appropriation bill providing funds for the Department of Agriculture and including a specific allocation of funds for animal disease and pest control, an amendment providing that "no appropriation . . . in this act shall be used for the purchase or application of chemical pesticides" where such action "would be prohibited by State law" was held to be germane to the paragraph to which offered and in order as a limitation on the use of the funds therein.

On May 26, 1969,[10] the Committee of the Whole was considering H.R. 11612, a general appropriation bill providing funds for the Department of Agriculture, with a specific allocation of funds for animal disease and pest control. The Clerk read as follows, and proceedings ensued as indicated below:

Plant and animal disease and pest control: For operations and measures, not otherwise provided for, to control and eradicate pests and plant and animal diseases and for carrying out as-

10. 115 CONG. REC. 13752, 13753, 91st Cong. 1st Sess.

signed inspection, quarantine, and regulatory activities, as authorized by law, including expenses pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b–c), $89,-493,000. . . .

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Ottinger: On page 5, line 5, change the semicolon to a colon and add the following: "*Provided,* That no appropriation contained in this act shall be used for the purchase or application of chemical pesticides, except for small quantities for testing purposes, within or substantially affecting States in circumstances in which the purchase or application of such pesticides would be prohibited by State law or regulation, for any citizen or instrumentality of State or local government."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I wish to reserve a point of order. . . .

MR. OTTINGER: . . . The amendment I am offering is designed merely to prohibit the use of chemical pesticides by the Federal Government in any State where those pesticides could not be legally used, under State law or regulation.

DDT and similar chemical pesticides have been extensively criticized in recent years, and the intensity of this criticism has been considerably increased in the past few months; many scientists have suggested that these chemicals should be banned outright.

Responding to this attack, Arizona and Michigan have banned the use of these chemicals, and several other States are considering similar bans; in addition, many States have the authority to prohibit by regulation or executive action the use of chemicals which are found to be harmful.

I do not feel that the Congress should be guilty of imposing its own judgment in this area by permitting the use of these chemicals in cases where the responsible State authorities have concluded that they should be prohibited. My amendment would subject the Department of Agriculture to no greater restrictions than now operate upon citizens and State agencies in those States, and in States where similar bans may be imposed in the future. . . .

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

MR. WHITTEN: Mr. Chairman, upon reading the amendment, I notice it goes further than I thought it did. In the first place, I do not know of any provision in this bill for the purchase of chemical pesticides.

May I say further, Mr. Chairman, that the amendment before us goes to the State law, exempting or including pesticides based on those States which have passed State laws.

On that basis, Mr. Chairman, I contend that the amendment is not germane and goes far beyond the legislation before us. . . .

THE CHAIRMAN: The amendment offered by the gentleman from New York (Mr. Ottinger) provides that no appropriation contained in this act shall be used for the purchase or application of chemical pesticides.

The amendment notes certain exceptions within or substantially affecting

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

States in circumstances in which the purchase or application of such pesticides would be prohibited by State law or regulation, or any citizen or instrumentality of State or local government.

It is a well-established rule that an amendment to an appropriation bill is germane wherein it denies the use of funds for a specific purpose.

The amendment offered by the gentleman from New York (Mr. Ottinger) appears to fall within that rule. It is a limitation upon the use of funds appropriated in the bill. It is a denial of the use of those funds for a specific purpose. Therefore, the Chair overrules the point of order.

Parliamentarian's Note: A possible argument in support of the point of order might have been the imposition on federal officials of a duty to become conversant with a variety of state laws and regulations. Whether such duty would be considered as a new or additional one not contemplated in existing law, or whether federal officials might already have such a duty in law, would then be an issue. A related question would be whether implied duties incidental to an apparent limitation on the use of funds are as objectionable as language which expressly imposes duties of a more extensive nature. For further discussion of the imposition of duties on officials as grounds for ruling language out of order, see §§ 52 and 53, supra.

Dissemination of Market Information

§ 67.9 To an Agriculture Department appropriation bill, including funds for the Agricultural Marketing Service, an amendment providing that no part of these funds may be used for dissemination of market information over government-owned or leased wires serving privately owned newspapers, radio, or television was held to be a proper limitation although those functions were required by law to be performed.

On May 19, 1964,[12] the Committee of the Whole was considering H.R. 11202. The Clerk read as follows:

AGRICULTURAL MARKETING SERVICE

Marketing Services

For expenses necessary to carry on services related to agricultural marketing and distribution as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, including the administration of marketing regulatory acts connected therewith and for administration and coordination of payments to States; and this appropriation shall be available for field employment pursuant to

12. 110 CONG. REC. 11391, 11392, 88th Cong. 2d Sess.

section 706(a) of the Organic Act of 1944 (5 U.S.C. 574), and not to exceed $25,000 shall be available for employment at rates not to exceed $75 per diem under section 15 of the Act of August 2, 1946 (5 U.S.C. 55a), in carrying out section 201(a) to 201 (d), inclusive, of title II of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1291) and section 203(j) of the Agricultural Marketing Act of 1946; $39,389,000.

MR. [PAUL] FINDLEY [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Findley: On page 14, line 12, after the figure "$39,389,000" strike the period, insert a colon and the following: "*Provided*, That no part of the funds appropriated by this Act shall be used for any expenses incident to the assembly or preparation of information for transmission over Government-leased wires directly serving privately-owned radio or television stations or newspapers of general circulation, or for transmission over Government-leased wires which are subject to direct interconnection with wires leased by nongovernmental persons, firms or associations.". . .

THE CHAIRMAN:[13] The gentleman from Mississippi will state his point of order.

MR. [JAMIE L.] WHITTEN [of Mississippi]: The law requires, in subsection k of section 1622 of the Agricultural Marketing Act of 1946, 7 U.S.C. 1621–27, as follows:

> To collect, tabulate, and disseminate statistics of marketing agricultural products, including, but not restricted to statistics on market supplies, storage stocks, quantity, quality, and condition of such products in various positions in the marketing channel, utilization of such products, and shipments and unloads thereof.

That statute is absolutely mandatory and requires the Department to bring together that information. The gentleman's amendment does not limit funds for the discharge of the duties under that section. It attempts to deprive the Secretary of authority conferred by law which was determined in an earlier ruling (IV, 3846) to be legislation. Further, I respectfully submit it will require additional duties of folks in the Department of Agriculture, which is also legislation.

May I point out again, Mr. Chairman, in the last part of it, it says the information cannot be collected for the purpose of being disseminated. I respectfully submit it is legislation on an appropriation bill calling for new duties and responsibilities on the one hand, and limiting executive authority on the other.

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

MR. FINDLEY: Mr. Chairman, here again I believe it is very clear on the face of this amendment that it amounts to retrenchment. Contrary to placing new burdens on department employees it would actually relieve them of the responsibilities which they assumed last April 1 in connection with the Weather Bureau services and which they assumed August 1 in connection with the establishment of the new Market News Service.

THE CHAIRMAN: The gentleman from Illinois offers an amendment addressed to page 14, line 12, which adds a proviso to the section preceding that line as follows:

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

Provided, That no part of the funds appropriated by this Act shall be used for any expenses incident to the assembly or preparation of information for transmission over Government-leased wires directly serving privately owned radio or television stations or newspapers of general circulation, or for transmission over Government-leased wires which are subject to direct interconnection with wires leased by nongovernmental persons, firms, or associations.

To this amendment the gentleman from Mississippi [Mr. Whitten] makes the point of order that it is legislation on an appropriation bill and points out that the functions sought in this amendment as a limitation of the appropriation are functions that are required by other substantive law.

The Chairman would call the attention of the Committee to the fact that the existence of substantive law and the provisions thereof are quite obviously not necessarily binding on the Appropriations Committee. The Chair feels, therefore, that where that committee seeks to appropriate funds and an amendment is offered that seeks to deny the use of those funds even for functions otherwise required by law, that that amendment is in the nature of a limitation of appropriations and therefore overrules the point of order.

Technical Assistance to Foreign Countries

§ 67.10 To an appropriation bill, an amendment providing that none of the funds in the bill shall be used for technical assistance for agricultural production of commodities exported by certain countries was held to be a proper limitation and therefore in order.

On July 11, 1955,[14] the Committee of the Whole was considering H.R. 7224, a mutual security appropriation bill. The Clerk read as follows:

Amendment offered by Mr. [Jamie L.] Whitten [of Mississippi]: On page 10, line 15, change the period to a semicolon and add the following: "Nor shall any of these funds be used for technical or other assistance for agricultural production of commodities exported by such country."

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, I make the point of order that this is legislation on an appropriation bill. It would impose additional duties, and it is not within the scope of the bill being considered.

THE CHAIRMAN:[15] The Chair does not agree with the gentleman. The Chair firmly feels that this is a limitation within the rules. Therefore, the Chair overrules the point of order.

Prohibiting Funds for Certain Type of Crop Insurance Program

§ 67.11 To an appropriation bill providing funds for the Federal Crop Insurance Cor-

14. 101 CONG. REC. 10240, 84th Cong. 1st Sess.

15. Francis E. Walter (Pa.).

poration, and limiting the amount of premium income derived from the fund which may be used for operating expenses, an amendment providing instead that "no funds (herein) shall be used to formulate . . . a federal crop insurance program . . . that does not meet its . . . operating expenses from premium income" was held to be a proper limitation restricting the availability of funds and in order as not constituting an affirmative direction.

On Apr. 26, 1966,[16] the Committee of the Whole was considering H.R. 14596. The Clerk read as follows, and proceedings ensued as indicated below:

FEDERAL CROP INSURANCE CORPORATION FUND

Not to exceed $4,150,000 of administrative and operating expenses may be paid from premium income: *Provided*, That in the event the Federal Crop Insurance Corporation Fund is insufficient to meet indemnity payments and other charges against such Fund, not to exceed $500,000 may be borrowed from the Commodity Credit Corporation under such terms and conditions as the Secretary may prescribe, but repayment of such amount shall include interest at a rate not less than the cost of money to the Commodity Credit Corporation for a comparable period.

MR. [PAUL] FINDLEY [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Findley: On page 35, strike all language on lines 11 and 12, and insert the following:

"No fund appropriated by the Act shall be used to formulate or administer a Federal crop insurance program for the current fiscal year that does not meet its administrative and operating expenses from premium income: *Provided*,". . . .

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Illinois on the ground that it is legislation on an appropriation bill.

May I say that the gentleman from Illinois gave the matter away, in my opinion, when he said that the purpose of his amendment was to set premium rates that the Government would charge. I think that shows clearly what is involved. This amendment provides that no funds shall be used to administer this program under certain conditions. The program now in existence is based on contracts to which the Government is a party. For us in this bill to try to prohibit the handling of existing contracts on the part of the Government would clearly be legislation. It not only would be legislation but it would interfere with meeting obligations under existing contracts and commitments on the part of the Government. . . .

MR. FINDLEY: . . . Mr. Chairman, the amendment I have offered is clearly a limitation of funds, requiring that

16. 112 CONG. REC. 8968, 8969, 89th Cong. 2d Sess.

no funds be appropriated for the administration or formulation of programs. Therefore, on the basis of that it seems to me that the amendment is in order.

MR. WHITTEN: Mr. Chairman, if I may make one observation, the amendment has to do with setting premiums and is quite clearly an affirmative action.

THE CHAIRMAN:[17] The Chair is prepared to rule. . . .

It might be said that the effect of any proposed amendment is truly not within the competence of the Chair. But a reading of this language indicates to this occupant of the chair that there is here sought an express limitation on the funds appropriated by the pending bill and the Chair, therefore, overrules the point of order.

Agricultural Conservation

§ 67.12 To a bill appropriating funds for agricultural conservation, a provision that no part of the appropriation for soil building and soil and water conserving practices shall be used to make small payment increases (though authorized by law) was held to be a limitation restricting the availability of funds and in order.

On May 18, 1959,[18] the Committee of the Whole was considering H.R. 7175, a Department of Agriculture and Farm Credit Administration appropriation bill.

AGRICULTURAL CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 7 to 16, 16(a), and 17 of the Soil Conservation and Domestic Allotment Act. . . . *Provided further,* That none of the funds herein appropriated shall be used to pay the salaries or expenses of any regional information employees or any State information employees, but this shall not preclude the answering of inquiries or supplying of information at the county level to individual farmers: . . . *Provided further,* That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities", approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18, United States Code, section 1913, to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels. . . .

MR. [JOHN W.] BYRNES of Wisconsin: Mr. Chairman, I offer an amendment.

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

18. 105 CONG. REC. 8328, 8329, 8331, 8332, 86th Cong. 1st Sess.

The Clerk read as follows:

> Amendment offered by Mr. Byrnes of Wisconsin: On page 14, line 18, strike out the period in line 18, insert a colon and add "*Provided further,* That no part of any funds appropriated herein for soil building and soil and water conserving practices, under the Act of February 29, 1936, as amended, shall be used to make small payment increases as provided in section 8(e) of that Act."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I make a point of order against the amendment. . . .

MR. BYRNES of Wisconsin: . . . [T]he purpose of this amendment and the real effect of this amendment would be to increase the payments under the agricultural conservation program for actual conservation practices without any increase in the appropriation for that purpose.

I did not realize that this was the situation until I was advised by the chairman of our State ASC committee in Wisconsin of problems that they have encountered under section 8(e) in the 1938 act, which provides these so-called small payments. Under the law enacted in 1938 payments made to farmers under the ACP program are increased by specific percentage amounts if the payments are less than $200. This is known as the small payments increase provision. All of these increases are in small amounts. Under the formula provided by law they run from $8 to $14 a farm, depending upon the size of the payment which the farmer otherwise would earn as a result of his practices.

In the aggregate, however, they represent a sizeable portion of the funds paid by the Federal Government for conservation practices. In 1957, for example, the latest year for which I have data, small payment increases cost the Federal Government $10,743,000.

Mr. Chairman, I suggest that the amendment being not only what I consider meritorious to improve our soil conservation program and make available more money for actual soil conservation practices is in order as a limitation on an appropriation bill.

MR. WHITTEN: . . . The gentleman's amendment is tied to the money which this bill would appropriate to pay for contracts entered into last year. I would respectfully submit here that to tie strings to the money that is authorized under the basic act for this additional contribution under small payments on contracts which the Government owes, certainly should not lie here. That is a matter having to do with legislation. If the law needs to be changed, I am certain the gentleman could ably offer his recommendations to the legislative committee on agriculture where this matter should go.

Here in this bill, and we fought over this many times, Mr. Chairman, in the conservation program, the ACP program, you do two things. You announce next year's program and you provide funds for the payment of existing contracts which have been entered into under the previous year's announced program.

THE CHAIRMAN:[19] The Chair is prepared to rule.

The gentleman from Wisconsin has offered an amendment which has been reported by the Clerk. The gentleman from Mississippi has made a point of

19. Paul J. Kilday (Tex.).

order against the amendment on the ground that it constitutes legislation on an appropriation bill. The Chair would point out that the amendment as offered by the gentleman from Wisconsin, is a proviso to the language contained in the bill providing that no part of any funds appropriated herein—and then states the limitation of purpose for which the funds appropriated in this bill shall not be used. Therefore, the Chair is constrained to hold that this constitutes a limitation on the use of the funds and, therefore, would be in order. The Chair overrules the point of order.

Soil Conservation Service

§ 67.13 An amendment to the Department of Agriculture chapter, general appropriation bill, 1951, providing, inter alia, that "not to exceed 5 percent of the allocation for the agricultural conservation program for any county may be allocated to the Soil Conservation Service" for services of its technicians in carrying out the agricultural conservation program, was held to be a limitation negatively restricting the availability of funds and therefore in order.

On Apr. 27, 1950,[20] the Committee of the Whole was considering H.R. 7786. The Clerk read as follows:

Amendment offered by Mr. [Jamie L.] Whitten [of Mississippi]: On page 191, line 17, after the colon insert: "*Provided further,* That not to exceed 5 percent of the allocation for the agricultural conservation program for any county may be allocated to the Soil Conservation Service for services of its technicians in formulating and carrying out the agricultural conservation program, and the funds so allocated shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such county." . . .

MR. [FRED] MARSHALL [of Minnesota]: Mr. Chairman, I raise the same objection to this amendment as I heretofore raised, that it is legislation on an appropriation bill. . . .

MR. WHITTEN: I would just like to say that we made an effort to modify the amendment to strike out the language which we believe caused the Chair to hold earlier that it was subject to a point of order. We have tried to bring it within the limits of a limitation on an appropriation bill.

MR. [KARL] STEFAN [of Nebraska]: Is this amendment offered in an effort to eliminate duplication?

MR. WHITTEN: It is an effort to try to coordinate these activities. I believe it holds high promise to give us a start on the point which the gentleman raised previously.

THE CHAIRMAN:[1] The Chair is prepared to rule. . . .

The Chair has examined the amendment and is of the opinion that it con-

20. 96 CONG. REC. 5930, 5931, 81st Cong. 2d Sess.

1. Jere Cooper (Tenn.).

stitutes a limitation on an appropriation bill and is in conformity with the rules of the House.

The point of order, therefore, is overruled.

Parliamentarian's Note: Earlier during consideration of the same bill, language in the bill which had given an affirmative direction that the county agricultural conservation committee in any county with the approval of the state committee may allot not to exceed five per centum of its allocation for the agricultural conservation program to the Soil Conservation Service for services of its technicians in carrying out the program, was held to be legislation and not in order. See § 39.11, supra.

Printing of Yearbook of Agriculture

§ 67.14 To a section of the legislative branch appropriation bill making appropriations for the Government Printing Office, an amendment providing that no part of the appropriation shall be used to pay the salary of any person who shall perform any service or authorize any expenditure in connection with the printing and binding of the Yearbook of Agriculture was held as a valid limitation and in order, although there were no funds in the bill designated for that purpose.

On Mar. 18, 1942,[2] the Committee of the Whole was considering H.R. 6802. The Clerk read as follows:

Amendment offered by Mr. [Everett M.] Dirksen [of Illinois]: On page 45, line 3, after "1942", insert "*Provided further*, That no part of this appropriation shall be used to pay the salary of any person who shall perform any service or authorize any expenditure in connection with the printing and binding of part 2 of the annual report of the Secretary of Agriculture (known as the Year Book of Agriculture) for 1942."

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, I make a point of order against the amendment. There are no funds carried in this bill for the purposes which are inhibited by the gentleman's amendment. It would be nugatory and of no effect, and I can conceive of no rule under which it might be in order.

MR. DIRKSEN: I think the amendment will speak for itself. I think it is a limitation and would be germane and in order, irrespective of whether any funds are carried, but the fact of the matter is that the yearbook is not printed ordinarily until after the first of the year. Consequently the personnel and salaries for clerical work and mechanical work in the Government Printing Office is done after the beginning of the fiscal year 1943. I

2. 88 CONG. REC. 2681, 77th Cong. 2d Sess.

therefore regard it as a proper limitation and in order. . . .

THE CHAIRMAN:[3] The Chair thinks that the limitation is a valid one, and, therefore, the point of order is overruled.

Funds for Publishing Certain Types of Parity Ratios

§ 67.15 To an Agriculture Department appropriation bill, including funds for a statistical reporting service, an amendment denying use of these funds for publishing any "parity" ratio other than that which is defined in section 301 of the Agricultural Adjustment Act was held a limitation and in order as not affirmatively restricting executive discretion.

On May 19, 1964,[4] the Committee of the Whole was considering H.R. 11202. The Clerk read as follows:

STATISTICAL REPORTING SERVICE

Salaries and expenses

For necessary expenses of the Statistical Reporting Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $11,431,000: *Provided,* That no part of the funds herein appropriated shall be available for any expense incident to publishing estimates of apple production for other than the commercial crop.

MR. [ANCHER) NELSEN [of Minnesota]: Mr. CHAIRMAN, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Nelsen: Page 13, line 20, add the following: *Provided further,* That no part of the funds herein appropriated shall be available for any expense incident to preparing or publishing either an 'adjusted parity ratio' or any other parity ratios except the parity ratio defined in section 301 (a) (B) of the Agricultural Adjustment Act of 1938, as amended."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I reserve a point of order against the amendment. . . .

THE CHAIRMAN:[5] Does the gentleman from Mississippi insist upon the point of order?

MR. WHITTEN: I do, Mr. Chairman.

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

MR. WHITTEN: I would point out that here again it is legislating on an appropriation bill. I would point particularly to the fact that the law requires the Secretary to make this determination. Also there are a number of statutes which have to do with that. I further point out that the precedents support my contention that this is a limitation on the discretion of an executive exercised under existing law. This has

3. William R. Thom (Ohio).

4. 110 CONG. REC. 11389, 11390, 88th Cong. 2d Sess.

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

been held on past occasions as legislating on an appropriation bill.

I say here where the law definitely says that the Secretary of Agriculture, a cabinet officer, is authorized to make this determination or issues in his name, which is the same, such orders or regulations, you prevent him from carrying out duties that are imposed upon him by law. While it is under the guise of the use of funds, the effect is to neutralize and deprive the executive department of the power and authority granted under the law. . . .

MR. NELSEN: I would like to point out that under the Holman rule you can legislate on an appropriation bill if you show retrenchment.

I would like to refer to the language which appears on page 13 to which my amendment has been offered. There the committee itself states:

> That no part of the funds herein appropriated shall be available for any expense incident to possible estimates of apple production for other than the commercial crop.

In effect the committee is legislating in this field through that very language. If my amendment is out of order, so is the language in this section.

I would like to point out further that I see no restriction on the Secretary of Agriculture by virtue of my amendment. He can publish all that he wants, as far as money that is being appropriated in the various programs is concerned, but the parity concept is established by law and it should be followed until the Congress of the United States makes a change.

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

The Chair will call the attention of the gentleman from Mississippi to the language cited by the gentleman from Minnesota appearing on page 13, lines 17 through 20.

The Chair is of the opinion that while the question is always present as to whether the form of an amendment is in fact a limitation or whether it is legislation in the guise of a limitation, the Chair is of the opinion that this amendment specifically limits the expenditure of the appropriated funds for any purpose other than that provided by existing law and, therefore, overrules the point of order.

Restriction on Salary of Employees Performing Certain Tasks

§ 67.16 To a bill appropriating funds for the Department of Agriculture, an amendment providing that none of the funds therein shall be used to pay the salary of any employee who performs duties incidental to supporting the price of cotton at a level specified was held to be a limitation and in order.

On June 6, 1963,[6] the Committee of the Whole was considering H.R. 6754. The Clerk read as follows, and proceedings ensued as indicated below:

> Amendment offered by Mr. [Paul] Findley [of Illinois]: Page 33, after line 12, insert the following:

6. 109 CONG. REC. 10411, 10412, 88th Cong. 1st Sess.

"Sec. 607. None of the funds provided herein shall be used to pay the salary of any officer or employee who negotiates agreements or contracts or in any other way, directly or indirectly, performs duties or functions incidental to supporting the price of Upland Middling Inch cotton at a level in excess of 30 cents a pound."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I make a point of order against the amendment, but I will reserve the point of order at this time. . . .

MR. FINDLEY: Mr. Chairman, the legislative history of the agricultural act of 1958 applied to cotton as well as to feed grains and very clearly indicated a gradual but steady stepdown in the level of price supports for cotton.

Secretary Freeman when taking office immediately raised the level of price supports in direct contradiction of the intent of the legislative act of 1958. He continued the price supports at this excessive level. The purpose of my amendment is simply to withhold funds for payment to any officers or employees of the department who would be entering into contracts or agreements providing for this unrealistic price support of more than 30 cents per pound for upland Middling inch cotton.

Mr. Chairman, I urge support for the amendment on the basis of that argument. One of the reasons we had the supplemental appropriation bill for the Commodity Credit Corporation earlier this year was because the price supports for cotton had been set at an unrealistic level. I would also like to mention to those who may not have been in the Chamber earlier today that I had made a unanimous consent request to return to the language on page 17 of this bill. That request was objected to so my point of order was not disposed of by the Chair. I had wished at that time to point out that we are being asked today to legislate a new type cotton subsidy program in the appropriation bill. . . .

THE CHAIRMAN:[7] Does the gentleman from Mississippi [Mr. Whitten] press his point of order? . . .

MR. WHITTEN: Mr. Chairman, I make the point of order on the basis that the prohibition that would be set up here would require new duties to be performed in determining who negotiates, whether their actions constitute negotiations, or whether their actions in any of these particulars are in such a manner as to have their salaries not paid, particularly in view of other laws which require that employees of the Federal Government be paid certain specified sums.

Mr. Chairman, it does call for new duties and there is no limitation in its entirety.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Illinois [Mr. Findley] has offered an amendment which provides for the insertion of a new section, which amendment provides in words that none of the funds provided in the pending bill shall be used to pay the salary of any officer or employee who does certain things.

In the opinion of the Chair, that constitutes within the rules of the House a limitation on the funds being appropriated and is a proper form of limita-

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

tion. Therefore, the Chair overrules the point of order.

Prohibitions on Salaries of Employees Imposing Certain Demands on Farmers

§ 67.17 An amendment to the Agriculture Department appropriation bill providing that none of the funds appropriated in such bill shall be paid out for the salary, per diem allowance, or expenses of any person who personally or by letter demands that a farmer join the triple A program as a condition of draft deferment or for the granting of a priority certificate for any rationed article or commodity was held a proper limitation merely descriptive of a certain type of official activity.

On Mar. 23, 1944,[8] the Committee of the Whole was considering H.R. 4443. The Clerk read as follows:

Amendment offered by Mr. [Forest A.] Harness of Indiana: On page 65, line 18, after the end of the bracket, strike out the period and insert "*Provided further,* That none of the funds appropriated in this bill shall be paid out for the salary, per diem allowance or expenses of any person who personally or by letter demands that a farmer join the triple A program as a condition of draft deferment or for the granting of a priority certificate for any rationed article or commodity.". . .

Mr. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, I desire first to raise the question of whether or not the amendment offered by the gentleman from Indiana is in order. I conceive that the amendment requires the performance of additional duties on the part of employees of the Department, in that, if I understand the amendment correctly, it would require in the case of all of the thousands of employees, administrative investigation and determination to be made as to whether any of those employees had written a letter or a postal card or done anything in violation of the requirement of the gentleman's amendment before the salary check of such employee could be issued for the month for which he was being compensated. . . .

It certainly seems to me, while it is in the form of a limitation so as to be in order under the Holman rule, the effect of this is to require performance of additional duties on the part of the employees of the Department. For that reason it is legislative in character and should not be considered in order. . . .

MR. HARNESS of Indiana: I submit that the argument of the gentleman does not point out anything except that this is a limitation. It does not require any duty on the part of any of the A.A.A. officials. It simply prohibits payment when this thing has been done. It simply acts as a safeguard so that the A.A.A. officials who want to enforce this act, who do not want these things to be done, could withhold payment when it has been done.

8. 90 CONG. REC. 2999, 78th Cong. 2d Sess.

MR. TARVER: Mr. Chairman, will the gentleman yield?

MR. HARNESS of Indiana: I yield.

MR. TARVER: How are those authorized to pay the salaries of these employees to ascertain whether these employees have written a letter or a postal card as prohibited in the gentleman's amendment? Will it not be necessary to make an investigation in each case every month?

MR. HARNESS of Indiana: No; of course it would not. If this amendment is adopted it will stop this practice. These people will not do it.

MR. TARVER: The gentleman is just figuring on everybody being good because he tells them to be?

MR. HARNESS of Indiana: Well, that is true. If your argument is sound, any limitation will require the same thing.

THE CHAIRMAN:[9] The Chair is prepared to rule. The proviso offered by the gentleman from Indiana [Mr. Harness] in the opinion of the Chair is a limitation and the point of order is overruled.

Prohibition on Salary to Employees Who Make Certain Loans

§ 67.18 A section of the Agriculture Department appropriation bill providing in part that no part of any appropriation in this act or authorized hereby to be expended shall be used to pay compensation or expenses of any officer or employee engaged in making loans under the provisions of section 201(e) of the Emergency Relief and Construction Act of 1932 was held a proper limitation and in order.

On Apr. 19, 1943,[10] the Committee of the Whole was considering H.R. 2481. The Clerk read as follows:

> Sec. 2. No part of any appropriation contained in this act or authorized hereby to be expended shall be used to pay the compensation or expenses of any officer or employee of the Department of Agriculture, or any bureau, office, agency, or service of the Department, or any corporation, institution, or association supervised thereby, who engages in, or directs, or authorizes any other officer or employee of the Department, or any such bureau, office, agency, service, corporation, institution, or association to engage in, the making of loans under the provisions of section 201(e) of the Emergency Relief and Construction Act of 1932 (12 U.S.C. 1148), as amended, or the making of loans or advances in accordance with the terms and conditions set forth in food production financing bulletins F–1 or F–2 of the Farm Credit Administration operating under the Food Production Administration, Production Loan Branch.
>
> MR. [CLIFFORD R.] HOPE [of Kansas]: Mr. Chairman, I make a point of order against the section just read on the ground it is legislation on an appropriation bill. . . .

9. William M. Whittington (Miss.).

10. 89 CONG. REC. 3597, 78th Cong. 1st Sess.

This section has for its apparent purpose a prohibition of further loans by the Regional Agricultural Credit Corporation. There is no provision in this bill making an appropriation for this corporation. So the limitation on its face is against officials of the Department of Agriculture who might exercise supervisory functions over it and its activities.

The Regional Agricultural Credit Corporations were created in 1932 under the Hoover administration. There were originally 12 corporations, 1 in each Federal land bank district. Later legislation was passed which authorized the consolidation of the Regional Agricultural Credit Corporations and the return of capital not needed to the Reconstruction Finance Corporation to be held as a revolving fund subject to the Governor of the Farm Credit Administration.

In the meantime, and on March 27, 1933, an Executive order was issued which transferred the jurisdiction and control of the regional agricultural credit corporations from the Reconstruction Finance Corporation, under whose jurisdiction they had originally been set up, to the Farm Credit Administration, and in that order the functions which were transferred were defined as follows:

> The functions of the Reconstruction Finance Corporation and its board of directors relating to the appointment of officers and agents to manage regional agricultural credit corporations formed under section 201(e) of the Emergency Relief and Construction Act of 1932; relating to the establishment of rules and regulations for such management and relating to the approval of loans and advances made by such corporations and of the terms and conditions thereof.

Under that Executive order and under the law it is the duty and the function of the Farm Credit Administration to make rules and regulations to supervise the operations of the regional agricultural credit corporations and to approve loans made by them. I think it is generally recognized under the rules of the House that any language purporting to be a limitation which either imposes new duties upon a Government agency or prohibits it from performing the duties which have been assigned to it is not a limitation but is legislation.

In this particular case the Farm Credit Administration is prohibited or rather its officers are prohibited under the legislation from directing or authorizing the Regional Agricultural Credit Corporation, to make loans and perform the other functions that are imposed upon it by law. That being the case, it is apparent that the officials of the Farm Credit Administration will be unable to carry out their duties in supervising the operations of the corporation, in approving loans, and other duties which have been assigned to them.

It can very readily be determined that this is legislation, I think, by considering the interpretation which officials of the Farm Credit Administration will place upon our action if the section remains in the bill. Certainly they would understand it to mean that Congress no longer expected them to carry on the functions which under the law they are to exercise over the Regional Agricultural Credit Corporation. In other words they will conclude that

Congress had changed its policy and has forbidden them to do what heretofore under the law they have been authorized and directed to do. That, Mr. Chairman, in my opinion very clearly constitutes legislation. . . .

MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. Chairman, I merely want to submit to the Chair the very purpose of the limitation is to prevent the expression of a certain task, function, or duty. It may never achieve that result, as a matter of fact, in substance, but that is its primary purpose. So I submit this is a very good limitation and quite within the rules and does not constitute legislation.

THE CHAIRMAN:[11] The Chair is ready to rule. . . .

It is the view of the Chair this section is clearly a limitation, and if there are no funds provided in this section the limitation will be ineffective. The Chair overrules the point of order.

Incidental Additional Duties (Crop Support Payments—Limitation on Type of Program)

§ 67.19 An amendment to a general appropriation bill which is strictly limited to funds appropriated in the bill, and which is negative and restrictive in character and prohibits certain uses of the funds, is in order as a limitation even though its imposition will change the present distribution of funds and require incidental duties on the part of those administering the funds.

On May 26, 1969,[12] the Committee of the Whole was considering H.R. 11612, a Department of Agriculture appropriation. An amendment was offered by Mr. Silvio O. Conte, of Massachusetts:

The Clerk read as follows:

Amendment offered by Mr. Conte: On page 22, line 17, strike the period and insert the following: ": *Provided further*, That no part of the funds appropriated by this Act shall be used to formulate or carry out any price support program (other than for sugar) under which payments aggregating more than $20,000 under all such programs are made to any producer on any crops planted in the fiscal year 1970."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I reserved a point of order. . . .

. . . [T]his subject has been discussed a number of times. There are several new features in this amendment that have not been included in previous amendments.

Congress set up the Commodity Credit Corporation as a corporation so that it could act as such. It gets its authority from several sources. One is borrowing authority granted by the Congress on the recommendation of the Banking and Currency Committee. Another is the sale of commodities on hand. The Corporation is given the right to sue and be sued. It is given

11. William M. Whittington (Miss.).

12. 115 CONG. REC. 13757–59, 91st Cong. 1st Sess.

the right to conduct itself in all ways as a corporation. . . .

So I respectfully submit that in the absence of a law repealing the Government Corporation Control Act and the charter of the Commodity Credit Corporation, under which it was given certain functions and commitments, that we would have to change that act in order to limit its functions. . . .

We say in our report that if Mr. Conte's amendment should be adopted, or Mr. Findley's, and if out of the funds in this bill the Corporation can pay only $20,000, we say that the Corporation would still have to do what its charter authorizes and binds it to do—because they have these contracts—and that is to go ahead and pay the remainder, over and above $20,000, out of other moneys they have. . . . The Corporation's charter provides its authority. We have not amended that charter. We passed legislation letting us supervise its activities, but in that law permitting us to survey it, it says nothing shall be done to keep that corporation from carrying out its functions under its charter.

THE CHAIRMAN:[13] The Chair is prepared to rule.

The gentleman from Massachusetts (Mr. Conte) has offered an amendment against which the gentleman from Mississippi (Mr. Whitten) has made a point of order on the ground that the amendment constitutes legislation on an appropriation bill in violation of clause 2 of rule XXI.

As the gentleman from Mississippi points out and as was further pointed out by the gentleman from Massachusetts, amendments almost exactly identical to that offered by the gentleman from Massachusetts have been offered on numerous previous occasions, as early as 1959 and as recently as May 1, 1968. On several of those occasions points of order have been raised against this amendment or its equivalent on similar grounds. On all of those previous occasions the occupants of the chair have held that the amendment is a valid limitation on funds appropriated by the bill, and on all of those occasions the point of order has been overruled. The Chair has had occasion to observe the elaborate and scholarly argument presented on May 1, 1968, by the gentleman from Mississippi (Mr. Whitten), and to hear his further argument today. The gentleman from Mississippi (Mr. Whitten) contends that the amendment would limit and restrict the activities of a Government corporation created and regulated by other law and that therefore constitutes legislation. The Chair finds on the face of the amendment that what it limits and restricts is the application of funds appropriated in this bill to a Government corporation, and as such the Chair believes that it falls well within the rulings by Chairman Kilday in 1959, by Chairman Harris on January 26, 1965, and by Chairman Corman on two occasions, June 6, 1967, and May 1, 1968. The Chair therefore holds that the amendment is a valid limitation on the funds appropriated in the bill and therefore overrules the point of order.

§ 67.20 An amendment to a general appropriation bill which is negative in character and which prohibits,

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

during the fiscal year covered by the bill, certain uses of the funds therein to carry out a program whose duration extends beyond that fiscal year, is in order as a limitation, even though its imposition would require incidental duties on the part of those administering the funds.

On June 9, 1970,[14] during consideration in the Committee of the Whole of the Department of Agriculture appropriation bill for fiscal 1971 (H.R. 17923), a point of order was raised against the following amendment:

MR. [PAUL] FINDLEY [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Findley: On page 23, line 8, after the word "regulations," strike the period, add a colon and the following:

"*Provided further*, That none of the funds appropriated by this act shall be used during the period ending June 30, 1971 to formulate or carry out any 1971 crop-year program under which the total amount of payments to a person under such program could be in excess of $20,000."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I reserve a point of order on the amendment. . . .

THE CHAIRMAN:[15] Does the gentleman from Mississippi desire to be heard on his point of order?

MR. WHITTEN: I do, Mr. Chairman.

If the Chair will note, the amendment is offered to a particular section of the bill, but the language provides that "none of the funds appropriated by this act," so it is a limitation, which means it applies to the Commodity Credit Corporation. The Commodity Credit Corporation was created under the laws of Delaware in 1933. It was given the power, it was given the right, and it was given the obligation of making payments, to make loans under the Corporation Control Act, and it was provided that nothing in that act should let the Congress prevent the corporation from discharging its functions. I might say the same thing applies to the TVA.

I respectfully, therefore, submit, Mr. Chairman, that to change the Corporation Control Act and to relieve it of its responsibilities which have been carefully protected by the Congress on at least two occasions, even in the Anti-Deficiency Act, which was some years later, would take legislation. It can only be done that way, and since it would require legislation to change it, anything that has that effect here of necessity must be legislation.

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

MR. FINDLEY: I do, Mr. Chairman.

Mr. Chairman, I rise in opposition to the point of order. This is the similar

14. 116 CONG. REC. 18997, 18998, 91st Cong. 2d Sess.

See also 117 CONG. REC. 21634–36, 92d Cong. 1st Sess., June 23, 1971 [H.R. 9270, agriculture, environmental, and consumer protection appropriations for fiscal 1972].

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

argument that has been extended by the gentleman from Mississippi on several previous occasions. One such occasion was January 26, 1965; another occasion was June 6, 1967, and another occasion related to an amendment offered by the gentleman from Massachusetts (Mr. Conte) on May 26, 1969.

On each of those occasions the limitation went to the entire act, as does this amendment. It stated on each occasion that "no part of this appropriation shall be used, or none of the funds appropriated by this act,"—language of that sort. The language applies to administrative salaries of ASDA organizations. The limitation is clearly negative on its face. It clearly shows retrenchment, the reduction in spending, and, therefore is entirely within the Holman rule, and I believe it is completely in order.

THE CHAIRMAN: The Chair is prepared to rule.

As the gentleman from Illinois declares, the point of order and the arguments supporting it have been offered on previous occasions, and on occasion by the gentleman from Mississippi, as recently as the 26th of May last year.

This point was made last year with respect to an amendment offered by the gentleman from Massachusetts (Mr. Conte), which, while not identical, is, in the opinion of the Chair, sufficiently similar to the presently offered amendment, as to govern.

On that occasion the gentleman from Massachusetts offered an amendment which would have provided:

> That no part of the funds appropriated by this Act shall be used to formulate or carry out any price support program (other than for sugar) under which payments aggregating more than $20,000 under all such programs are made to any producer on any crops planted in the fiscal year 1970.

On the basis of previous rulings of the Chair, it is the opinion of the present occupant of the chair, that the amendment offered by the gentleman from Illinois is a limitation on an appropriation bill and is therefore in order.

The point of order is overruled.

§ 67.21 An amendment to a general appropriation bill which is negative in character and which prohibits, during the fiscal year covered by the bill, certain uses of the funds therein to carry out a program whose duration extends beyond that fiscal year, is in order as a limitation even though its imposition might require incidental duties (not contemplated in the legislation establishing the administrative agency) on the part of those administering the funds.

On June 29, 1972,[16] during consideration in the Committee of the Whole of a general appropriation bill (H.R. 15690), a point of order was raised against the following amendment:

> Amendment offered by Mr. [Silvio O.] Conte [of Massachusetts]:

16. 118 CONG. REC. 23353–55, 92d Cong. 2d Sess.

On page 19, line 21, strike the period and insert the following: "*And provided further,* That none of the funds appropriated by this act shall be used during the fiscal year ending June 30, 1973, to formulate or carry out any single 1973 crop-year price support program (other than for sugar and wool) under which the total amount of payments to a person under any such program would be in excess of $20,000."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I reserve a point of order on the amendment.

THE CHAIRMAN:[17] The gentleman from Mississippi reserves a point of order against the amendment. . . .

Does the gentleman from Mississippi desire to address himself to his point of order?

MR. WHITTEN: I do, Mr. Chairman. . . .

As to my point of order, Mr. Chairman, the amendment, to which I make the point of order, goes to tying strings on the Commodity Credit Corporation. The Commodity Credit Corporation at the present time is a creature of statutory law originally created and incorporated under the laws of the State of Delaware. It was made into a corporation so that it could perform and discharge all of the duties of a corporation, that is, sue and be sued. It had an independence created by statute. With time the Congress made it a U.S. corporation and brought forward the provisions which are incorporated in the Corporation Control Act. It appears in the compilation of statutes of February 17, page 154, 69 Stat. 1007.

In addition, the Commodity Credit Corporation by law and in the law is created for the purpose of stabilizing, supporting, and protecting farm income.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Massachusetts has offered an amendment to which the gentleman from Mississippi has made a point of order on the ground that it would constitute legislation on the pending appropriation bill, and thus be in violation of clause 2, rule XXI.

There have been at least six rulings on points of order offered against similar or identical amendments in recent years.

Chairman Kilday in 1959, Chairman Harris in 1965, Chairman Corman in 1967 and 1968, and the present occupant of the chair in 1969, 1970, and 1971.

All have ruled on similar points of order. On each occasion the amendments have been held to be in order as being limitations on an appropriation bill.

In the present instance, the Chair has examined the amendment and is of the opinion that it applies only to funds which would be appropriated in the pending appropriation bill and that it does no more than limit the use or application of the funds made available in the pending bill.

Therefore, consistent with the precedents that the Chair has cited, the Chair holds that the amendment is in order as a limitation on an appropriation bill and the point of order is overruled.

Commodity Credit Corporation, Employee Salary

§ 67.22 Language in an appropriation bill providing that

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

none of the funds therein shall be used to pay any employee of the Department of Agriculture who serves as a member of the Board of Directors or as an officer of the Commodity Credit Corporation was held to be a negative limitation and in order, though indirectly effecting a change in policy.

On May 11, 1960,[18] the Committee of the Whole was considering H.R. 12117, an Agriculture Department appropriation bill. The Clerk read as follows:

> Sec. 408. No part of the funds appropriated by this Act shall be used to pay the compensation of any employee or officer of the Department, except the Secretary of Agriculture, who, in addition to other regularly assigned responsibilities, serves as a member of the Board of Directors or as an officer of the Commodity Credit Corporation after February 1, 1961.
>
> MR. [PAUL] BROWN of Georgia: Mr. Chairman, a point of order.
>
> THE CHAIRMAN:[19] The gentleman will state it.
>
> MR. BROWN of Georgia: . . . This reverses a decision made by the Banking and Currency Committee and the Congress in 1949, when the CCC Charter Act was amended to strike out a similar restriction which had been enacted in 1948. It is, therefore, legislation, and the mere fact it is put in the form of a limitation on the use of funds appropriated by the bill does not save it. As paragraph 1691, volume 7, of Cannon's Precedents of the House of Representatives puts it:
>
> > The purpose rather than the form of a proposed limitation is the proper criterion by which its admissibility should be judged, and if its purpose appears to be a restriction of executive discretion to a degree that may be fairly termed a change of policy rather than a matter of administrative detail it is not in order.
>
> Again in paragraph 1606 of the same volume, the following is found:
>
> > Whenever a purported limitation makes unlawful that which before was lawful or makes lawful that which before was unlawful it changes existing law and is not in order on an appropriation bill.
> >
> > A proper limitation is negative and in the nature of a veto, and when it assumes affirmative form by direction to an executive in the discharge of his duties under existing law it ceases to be a limitation and becomes legislation.
>
> Section 408 in effect requires the Secretary to take affirmative action. To carry out the farm programs financed by CCC, the Secretary would have to appoint new Board members, recruited from private life, to replace the six Department officers other than himself who now serve on the Board. He would also have to recruit and appoint new personnel to serve as officers of the Corporation. This not only means the section constitutes legislation, but also means it is not entitled to the protec-

18. 106 CONG. REC. 10053, 10054, 86th Cong. 2d Sess. See also §§ 52, 53, supra, for discussion of proposed language in appropriation bills as imposing additional duties on officials.

19. Paul J. Kilday (Tex.).

tion of the Holman rule, because it would not save the Government money. On the contrary, it would require hiring new employees at additional expense to the Government. . . .

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, the section clearly provides a limitation on the use of funds that are appropriated in this bill. It does not change the Commodity Credit Corporation charter. It does not change any basic law. It just simply limits what the money in this bill can be used for. It has been my experience and observation during the years here that the Chair has many times said that it is a negative limitation on the use of money and that it is clearly in order, and on that I rest the committee's position.

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

The Chair has had an opportunity to examine the precedents in this connection, including the precedents to which the gentleman from Georgia has referred and from which he has read. The Chair would also refer to paragraph 1694 of Cannon's Precedents, volume 7, the language being:

> While a limitation may not involve change of existing law or affirmatively restrict executive direction, it may properly effect a change of administrative policy and still be in order.

The Chair has examined additional precedents bearing on this question. The Chair is constrained to hold that section 408 is a restriction on a manner in which the funds can be used, and constitutes a negative limitation, and, therefore, overrules the point of order.

Parliamentarian's Note: A discussion comparing the precedents cited above, 7 Cannon's Precedents §§ 1691 and 1694 can be found in § 51, supra. An issue suggested by the debate on May 11, 1960, is whether language in an appropriation bill should be ruled out if it may lead prospectively or indirectly to the imposition of duties on officials, by the operation of other laws. The ruling suggests that only where the duties are imposed directly by the language of the provision in question is it subject to a point of order.

"Stream Channelization

§ 67.23 An amendment to an appropriation bill prohibiting the use of funds therein for stream channelization projects under the Secretary of Agriculture unless construction had begun by a date certain was held not to impose additional affirmative duties on the Secretary and in order as a limitation on the use of funds in the bill.

On June 23, 1971,[20] during consideration in the Committee of the Whole of a general appropriation bill (H.R. 9270), a point of

20. 117 CONG. REC. 21648, 21649, 92d Cong. 1st Sess.

order was raised against the following amendment:

Amendment offered by Mr. [Henry S.] Reuss [of Wisconsin]: On page 37, immediately after line 25, insert the following:

"STREAM CHANNELIZATION

"No part of the funds appropriated by this Act shall be used for engineering or construction of any stream channelization measure under any program administered by the Secretary of Agriculture unless such channelization is in a project a part of which was in the project construction stage before July 1, 1971."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I reserve a point of order to the amendment. . . .

Mr. Chairman, I recognize that the Chair, in the other ruling pointed up the section which was dropped. That being sufficient, I take it, the Chair did not feel any need to study the other parts. Since it was going out on one ground there was no need to study the others.

The part that is left says that "under any program administered by the Secretary of Agriculture."

The program, apparently, that this is directed to is the Soil Conservation projects. I would respectfully call the attention of the Chair to the fact that these are two things which must be done on these projects. The Department of Agriculture does not have any right of eminent domain in order to get ground on which to build these projects. Under the law there is required a local sponsor, who in most cases is a drainage or similar district, which in turn issues bonds or borrows money, with which they buy rights-of-way. Those rights-of-way having been bought, this comes under the administration of the Soil Conservation Service.

In this instance, with all these projects throughout the United States, in most cases they have to be approved by the local courts, which have to determine whether all of the requirements of the law have been carried out.

This would be imposing upon the Secretary of Agriculture the duty to go into each of those instances and to see whether that project was, as we quote here, "A part of which was in project construction stage before July 1, 1971." Those things do not come to the Secretary of Agriculture. They are handled, as I pointed out, in the initial stage at the local level with a local sponsorship and approved by local courts.

I say here this would be imposing additional duties on the Secretary of Agriculture not imposed on him by existing law. This again, although not pointed up by the Chair in the earlier ruling, would make it subject to a point of order. . . .

MR. [ROBERT E.] JONES of Alabama: Mr. Chairman, the amendment that goes to the appropriation item is one carried in Public Law 566. In that Public Law there are certain requirements which are made upon all of the political subdivisions which are participants under that existing law.

The Chair has just ruled that that requirement, the Cooper Decision, such as the Chair just ruled upon, would put an additional burden or an addi-

tional requirement on the administrative offices and would be an infringement upon the legislative function, which should not be carried in an appropriation act.

Here is the situation. The situation is such that this amendment goes into an infinite requirement.

Suppose the amendment had said, "The Soil Conservation Service should not use a soil depleting plant and it should require not fescue but say four-leaf clover." That would be just as sensible as the amendment offered by the gentleman from Wisconsin.

I do not know how the administrative officer assigned the duties under Public Law 566 is going to be responsible, when the amendment offered by the gentleman from Wisconsin is going to tell him how to function, how much water to use, how much plant leaf, or how much forestation, and all the varieties of programs that are employed in the total scheme and development of the overall program. It does not make sense to me that we are going to have amendments offered here that are going to tell administrative agencies how much they are going to employ in a certain area, for geographical distribution, and how they are going to develop a sound and sensible program.

Now, Mr. Chairman, all of us aspire to develop all of the advantages of our resources. We are totally dedicated to the proposition. There is not a single one of us here who is not as anxious as he can be to accomplish this, or who wants to deplete, dissipate or misuse the water resources of our country. I think we are all in unity on that, but I would hate to see us come up here and fragment the total programs that have been so far established by the various committees of the Congress and thereby lose our grip on the total water resources of this country. I cannot think of anything worse, or any situation that would create more disunity and create a greater loss of hope that we can work together in the development of these programs in the future.

Mr. Chairman, I hope that the point of order raised by the gentleman from Mississippi to the amendment will be sustained. . . .

MR. REUSS: . . . This amendment is entirely germane. It is within all of the precedents as a limitation on an appropriation. It requires no duties on the part of the Secretary of Agriculture other than for him to show up at the office in the morning and find out what projects have been started. If they have been started, my amendment would not touch them. Accordingly I hope that the point of order will be ruled against.

THE CHAIRMAN:[1] The Chair is ready to rule.

The Chair feels that the burden, if any, which is imposed on the Secretary of Agriculture or any administrator in the present amendment offered by the gentleman from Wisconsin is clearly different from that on the basis of which the Chair ruled that the amendment previously offered would be legislation on an appropriation bill, and would, therefore, be out of order. The Chair believes that this present amendment before the House follows the pattern of limitation on an appropriation bill, and that it does not constitute new legislation. Therefore the Chair overrules the point of order.

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

Parliamentarian's Note: On the same day, a provision requiring state approval of certain projects was ruled out as legislation. See Sec. 53.6, supra; see also the note following Sec. 53.6.

Removal of Dollar Limit on Building Cost; No Authorization Ceiling

§ 67.24 A provision in the general appropriation bill, 1951, providing that no part of the appropriation shall be used (by the Secretary of Agriculture under the Research and Marketing Act) for beginning construction of any building costing in excess of $15,000, except that a poultry breeding house may be constructed at Purdue University at a cost of not to exceed $29,000, was held to be a limitation and in order inasmuch as the authorization for such projects contained no ceiling on such expenditures.

On Apr. 27, 1950,[2] the Committee of the Whole was considering H.R. 7786. A provision therein provided that no part of the appropriation shall be used [by the Secretary of Agriculture under the Research and Marketing Act] for beginning construction of any building costing in excess of $15,000, except that a poultry breeding house may be constructed at Purdue University at a cost of not to exceed $29,000. A point of order was made, as follows:

> Mr. [KENNETH B.] KEATING [of New York]: Mr. Chairman, I make a point of order against the language appearing in lines 15 to 17 on page 157, reading "Except that a poultry breeding house may be constructed at Purdue University," on the ground that it is legislation in an appropriation bill.
>
> THE CHAIRMAN:[3] Does the gentleman from Mississippi desire to be heard on the point of order?
>
> Mr. [JAMIE L.] WHITTEN [of Mississippi]: Yes, Mr. Chairman. Mr. Chairman, I wish to call attention to the fact that under the Research and Marketing Act, section 7–A, 7 United States Code 427(h), the Department of Agriculture is authorized to construct agricultural buildings without limitation on the amounts. This committee has put restrictions heretofore on these amounts, fixing the individual amount at $15,000 per unit. We carry that provision with the exception that in this instance we let them go above it.
>
> It traces back to the legislative authorization in the Research and Marketing Act under which they have authority to build such houses without any limitation.
>
> In effect this is a limitation.
>
> The authorization [now 7 U.S.C. 361(d)] reads as follows:

2. 96 CONG. REC. 5910, 5911, 81st Cong. 2d Sess.

3. Jere Cooper (Tenn.).

The money appropriated in pursuance of this title shall also be available for the purchase or rental of land and the construction and acquisition of buildings necessary for conducting research provided for in this title.

In effect this is a limitation fixing the amount they may spend for this purpose.

THE CHAIRMAN: . . . The Chair has examined the provisions of existing law cited by the gentleman from Mississippi and invites attention to the fact that the first part of this paragraph appears clearly to be a limitation and the latter part of the paragraph appears to be an exception to the limitation for a purpose authorized by law.

The Chair, therefore, overrules the point of order.

Price Support Programs; Limit on Single Payments

§ 67.25 To a paragraph of a bill making appropriations for parity payments, an amendment limiting such payments to any person or corporation to $1,000 was held a proper limitation restricting the availability of funds and in order.

On Mar. 9, 1942,[4] the Committee of the Whole was considering H.R. 6709, an Agriculture Department appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. (Jed) Johnson of Oklahoma: On page 75, line 13, after "Government" and before the period, insert the following: ": *Provided further,* That no payment or payments hereunder to any one person or corporation shall be in excess of the total sum of $1,000."

In response to a point of order made by Mr. William M. Whittington, of Mississippi, the Chairman[5] made the following ruling:

From Cannon's Procedure, on page 61, the Chair reads the following:

The House in Committee of the Whole 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 part of the parliamentary law of the Committee of the Whole.

That was a ruling made by Mr. Chairman Nelson Dingley, of Maine, January 17, 1896. The present amendment against which the point of order has been made undertakes to limit payments which have heretofore been provided for by law. In the opinion of the Chair, the amendment is a limitation; and, therefore, the Chair overrules the point of order.

Limits on Payments or Loans Under Farm Program

§ 67.26 To an appropriation bill providing funds for pro-

4. 88 CONG. REC. 2114, 2115, 77th Cong. 2d Sess.

5. Robert Ramspeck (Ga.).

grams operated by the Commodity Credit Corporation, and permitting a transfer of certain corporation funds to those programs, an amendment providing that no funds in the act be used for price support programs under which payments to producers exceed specified amounts was held in order as a limitation restricting the availability of funds.

On May 26, 1969,[6] the Committee of the Whole was considering H.R. 11612, a Department of Agriculture appropriation bill. During consideration, the Chair overruled a point of order against a substitute amendment, as indicated below:

Substitute amendment offered by Mr. [Albert H.] Quie [of Minnesota]: On page 22, line 17, strike the period and insert the following: ": *Provided further,* That no part of the funds appropriated by this Act shall be used to formulate or carry out any price support program on cotton, wheat, or feed grains planted during the fiscal year 1970 under which payments to any single producer exceed an amount determined as follows: [A table of payments was inserted here.]

MR. [JAMIE L.] Whitten [of Mississippi]: Mr. Chairman, I make a point of order.

THE CHAIRMAN:[7] The gentleman will state his point of order.

MR. WHITTEN: It is legislation on an appropriation bill, and requires additional duties.

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

MR. QUIE: Yes, I do, Mr. Chairman.

I believe this amendment is in order, because the opening language is identical with that of the Conte amendment. The only difference is that where his cutoff is at $20,000 mine provides for a graduation or scaling down of the cutoff above that. It applies only to the funds in this act and is a limitation on the funds in this act. Therefore, Mr. Chairman, I believe it is in order.

THE CHAIRMAN: The Chair is ready to rule.

For reasons declared in a previous ruling the Chair is going to hold that the substitute amendment offered by the gentleman from Minnesota (Mr. Quie), is a limitation on the appropriation and is therefore in order. The Chair overrules the point of order.

§ 67.27 To an appropriation bill providing funds for programs operated by the Commodity Credit Corporation, and permitting a transfer of certain corporation funds to those programs, an amendment specifying that no funds appropriated by the act be used to formulate or carry out price support programs which include payments in excess of $20,000 to any producer, was held in order as a limitation restricting the availability of funds.

6. 115 CONG. REC. 13762, 13763, 91st Cong. 1st Sess.

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

On May 26, 1969,[8] the Committee of the Whole was considering H.R. 11612, a Department of Agriculture appropriation bill. The following amendment was offered:

> Amendment offered by Mr. [Silvio O.] Conte [of Massachusetts]: On page 22, line 17, strike the period and insert the following: ": *Provided further*, That no part of the funds appropriated by this Act shall be used to formulate or carry out any price support program (other than for sugar) under which payments aggregating more than $20,000 under all such programs are made to any producer on any crops planted in the fiscal year 1970."

In response to a point of order against the amendment, the Chairman, James C. Wright, Jr., of Texas, ruled as follows:

> The gentleman from Massachusetts (Mr. Conte) has offered an amendment against which the gentleman from Mississippi (Mr. Whitten) has made a point of order on the ground that the amendment constitutes legislation on an appropriation bill in violation of clause 2 of Rule XXI.
>
> As the gentleman from Mississippi points out and as was further pointed out by the gentleman from Massachusetts, amendments almost exactly identical to that offered by the gentleman from Massachusetts have been offered on numerous previous occasions, as early as 1959 and as recently as May 1, 1968. On several of those occasions points of order have been raised against this amendment or its equivalent on similar grounds. On all those previous occasions the occupants of the chair have held that the amendment is a valid limitation on funds appropriated by the bill, and on all of those occasions the point of order has been overruled. The Chair has had occasion to observe the elaborate and scholarly argument presented on May 1, 1968, by the gentleman from Mississippi (Mr. Whitten), and to hear his further argument today. The gentleman from Mississippi (Mr. Whitten) contends that the amendment would limit and restrict the activities of a Government corporation created and regulated by other law and that therefore constitutes legislation. The Chair finds on the face of the amendment that what it limits and restricts is the application of funds appropriated in this bill to a Government corporation, and as such the Chair believes that it falls well within the rulings by Chairman Kilday in 1959, by Chairman Harris on January 26, 1965, and by Chairman Corman on two occasions, June 5, 1967, and May 1, 1968. The Chair therefore holds that the amendment is a valid limitation on the funds appropriated in the bill and therefore overrules the point of order.

§ 67.28 The Committee of the Whole having stricken from an appropriation bill one limitation on compensation under an acreage reserve program, an amendment proposing another limitation of compensation to any one producer to $5,000 under

8. 115 CONG. REC. 13757–59, 91st Cong. 1st Sess.

such program was held to be in order and a proper limitation.

On May 15, 1957,[9] the Committee of the Whole was considering H.R. 7441, an Agriculture Department appropriation bill. The Clerk read as follows:

ACREAGE RESERVE, SOIL BANK

For necessary expenses to carry out an acreage reserve program in accordance with the provisions of subtitles A and C of the Soil Bank Act (7 U.S.C. 1821–1824 and 1802–1814), $60,000,000: *Provided*, That no part of this appropriation shall be used to formulate and administer an acreage reserve program which would result in total compensation being paid to producers in excess of $500,000,000 with respect to the 1958 crops.

MR. [BURR P.] HARRISON of Virginia: I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Harrison of Virginia: On page 21, strike out all following the word "program" in line 2 and strike out all of line 3. . . .

So the amendment was agreed to.

MR. [HENRY S.] REUSS [of Wisconsin]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Reuss: On page 21, line 4, change the period to a comma and add the following: "or in total compensation being paid to any one producer in excess of $5,000 with respect to the 1958 crops.". . .

MR. H. CARL ANDERSEN [of Minnesota]: Mr. Chairman, a point of order.

THE CHAIRMAN:[10] he gentleman will state it.

MR. H. CARL ANDERSEN: The gentleman's amendment, as just reported, affects a section of the bill already stricken by the amendment just agreed to, and furthermore I see no reason for any further discussion upon this particular amendment. . . .

THE CHAIRMAN: Upon what grounds does the gentleman make his point of order?

MR. H. CARL ANDERSEN: That the language to which this amendment applies has already been stricken out and, further, that it is legislation upon an appropriation bill.

THE CHAIRMAN: The Chair calls the attention of the gentleman to the fact that the amendment offered by the gentleman from Virginia, which was adopted, struck out only a portion of the proviso to this section. But, there is language remaining to which the gentleman has offered an amendment, and stated it would be at the end of that paragraph. It is also a limitation on the use of the appropriation. The point of order made by the gentleman from Minnesota is overruled.

§ 67.29 To a bill appropriating funds for the Commodity Credit Corporation, a provision that no funds appropriated in this section shall be used to process a loan

9. 103 CONG. REC. 7023, 7033, 7034, 85th Cong. 1st Sess.

10. Paul J. Kilday (Tex.).

which is in excess of $50,000 was held to be a limitation restricting the availability of funds and in order.

On May 18, 1959,[11] the Committee of the Whole was considering H.R. 7175, a Department of Agriculture and Farm Credit Administration appropriation bill. The Clerk read as follows:

TITLE II—CORPORATIONS

The following corporations and agencies are hereby authorized to make 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 limitation 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 fiscal year 1960 for such corporation or agency, except as hereinafter provided: . . .

Limitation on Administrative Expenses

Nothing in this Act shall be so construed as to prevent the Commodity Credit Corporation from carrying out any activity or any program authorized by law: *Provided,* That not to exceed $39,600,000 shall be available for administrative expenses of the Corporation: *Provided further,* That $1,000,000 of this authorization shall be available only to expand and strengthen the sales program of the Corporation pursuant to authority contained in the Corporation's charter: *Provided further,* That not less than 7 per centum of this authorization shall be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such time as may become necessary to carry out program operations: *Provided further,* That all necessary expenses (including legal and special services performed on a contract or fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Corporation or in which it has an interest, including expenses of collections of pledged collateral, shall be considered as nonadministrative expenses for the purposes hereof. . . .

MR. [WILLIAM H.] AVERY [of Kansas]: Mr. Chairman, I have an amendment at the desk on page 27.

THE CHAIRMAN:[12] The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Avery: Page 27, line 18 strike out the period, add a colon, and insert "*Provided further,* That no funds appropriated in this section shall be used to process a Commodity Credit loan which is in excess of $50,000.' . . .

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, the point of order I make is this: The Commodity Credit Corporation is chartered and its charter gives it certain authority. The language which the gentleman offers is legislation.

We are here dealing with the administration of the Commodity Credit Cor-

11. 105 CONG. REC. 8337, 8338, 86th Cong. 1st Sess.

12. Paul J. Kilday (Tex.).

poration in this bill. The gentleman's limitation would apply to what the Corporation would do and would have the effect of amending the charter of the Commodity Credit Corporation. . . .

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

The Chair would point out that the amendment by its language is a restriction upon the purpose for which the funds appropriated in this bill may be used.

The Chair would point out further that even though there should be an existing liability on the Government or should be through other legislation granting powers to an organization of the Government, still a provision in an appropriation bill limiting the purpose for which the funds appropriated in that bill may be used is a limitation and not legislation.

The Chair, therefore, overrules the point of order.

§ 67.30 To an Agriculture Department appropriation bill, an amendment specifying that no part of the funds therein shall be used, in any fiscal year, for farm program payments aggregating more than $50,000 to any person or corporation was held to be a proper limitation since confined to the funds in the bill.

On May 26, 1965,[13] he Committee of the Whole was considering H.R. 8370, a Department of Agriculture appropriation bill. The Clerk read as follows:

The Clerk: Page 36, line 20:

Sec. 506. Not less than $1,500,000 of the appropriations of the Department for research and service work authorized by the Acts of August 14, 1946, July 28, 1954, and September 6, 1958 (7 U.S.C. 472, 1621–1629; 42 U.S.C. 1891–1893), shall be available for contracting in accordance with said Acts.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dingell: Page 37, after line 2, insert the following section:

"Sec. 507. No part of any funds appropriated by this Act may, in any fiscal year, be used, directly or indirectly, to make payments to any person, partnership, or corporation in an aggregate amount in excess of $50,000 in connection with any price-support program or combination of programs for price support or stabilization, irrespective of whether such payments are on account of loans, purchases, or subsidies or are otherwise authorized."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I reserve a point of order against the amendment.

MR. DINGELL: Mr. Chairman and Members of the Committee, you will be interested to know that the U.S. Department of Agriculture's Commodity Credit Corporation publishes a list of recipients of price support loans which runs to 13 closely typed pages. . . .

THE CHAIRMAN:[14] Does the gentleman from Mississippi press his point of order? . . .

13. 111 CONG. REC. 11660–62, 89th Cong. 1st Sess.

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

MR. WHITTEN: This amendment would require the keeping of books, it would require substantive additional duties on many people because many producers produce many different crops. This would be legislation on an appropriation bill.

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

MR. DINGELL: Mr. Chairman, if I may be heard, I would point out this is very simple. I am sure the gentleman from Mississippi knows no duties are imposed upon any persons by this. . . .

This is really a limitation.

THE CHAIRMAN: The gentleman from Michigan [Mr. Dingell] offered an amendment. . . .

To which amendment the gentleman from Mississippi makes the point of order that it is legislation on an appropriation bill.

The Chair is of the opinion that since the amendment is directed to funds appropriated by the pending act, the phrase "in any fiscal year" is not applicable, nor in fact is it necessary. But the Chair is further of the opinion that this is an express limitation on the funds appropriated by the pending bill, and holds that the amendment is in order, and overrules the point of order.

§ 67.31 To a bill making appropriations for the Department of Agriculture, including an appropriation for reimbursement to the Commodity Credit Corporation, an amendment specifying that no funds appropriated by the Act be used for agricultural price support programs under which payments in excess of $25,000 will be made to any single recipient was held to be a proper limitation restricting the availability of funds and in order.

On June 6, 1967,[15] the Committee of the Whole was considering H.R. 10509. The Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. [Paul] Findley [of Illinois]: On page 34, line 18, after the word "hereof" strike the period and insert the following: "*Provided further*, That none of the funds appropriated by this Act shall be used to formulate or carry out price support or commodity programs during the period ended June 30, 1968, under which the total amount of payments in excess of $25,000 would be made to any single recipient as (1) incentive payments, (2) diversion payments, (3) price support payments. . . ."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I rise to make a point of order against the amendment. While the gentleman's amendment applies to a number of things that might be tied to appropriations in the bill, the amendment will stand or fall on all of its provisions. As I pointed out earlier, the Commodity Credit Corporation was set up as a corporation with certain rights and powers. Later it was brought under surveil-

15. 113 CONG. REC. 14853, 14854, 90th Cong. 1st Sess.

lance, and under both acts which brought it under congressional surveillance it was provided that—

> Nothing in this act of surveillance shall interfere with the operations of the Corporation in maintaining price supports.

If you read the amendment that has been offered by the gentleman from Illinois, you will see that item 3 states, "Price support payments may not exceed $25,000." So that language clearly would interfere with price support payments and would repeal the two acts that I mentioned. It would, to that extent, change the authority of the Commodity Credit Corporation. . . .

MR. FINDLEY: Mr. Chairman, I believe the amendment comes clearly within the Holman rule. It is negative. It represents a retrenchment. It designates things for which funds may not be spent.

I would call the attention of the Chair to the Congressional Record, volume 111, part 9, page 11656.

On that occasion the gentleman from Illinois [Mr. Michel] offered an amendment which had almost the same, almost the precise language—the substantive phrases at least. The Chair overruled the point of order made by the gentleman from Mississippi [Mr. Whitten]. So I do believe this is very much in order and in keeping with previous amendments of the same sort.

THE CHAIRMAN:[16] The Chair is ready to rule.

On January 26, 1965, the gentleman from Arkansas, Mr. Harris, was in the chair when a similar amendment was offered to a bill appropriating funds to reimburse the Commodity Credit Corporation. The Chair ruled that the proposed amendment was a limitation that applied only to the appropriations carried in the bill before the Committee at that time. The Chair therefore overruled the point of order. . . .

The Chair holds that the amendment is a limitation and, therefore, the Chair overrules the point of order.

§ 67.32 To an appropriation bill providing funds for the Agricultural Stabilization and Conservation Service including programs operated by the Commodity Credit Corporation, an amendment specifying that "one of the funds appropriated by this act shall be used during the period ending June 30, 1971 to formulate or carry out any 1971 crop-year program under which the total amount of payments to a person under such program would be in excess of $20,000" was held in order as a limitation.

On June 9, 1970,[17] the Committee of the Whole was considering H.R. 17923, a Department of Agriculture appropriation bill. The Clerk read as follows:

16. James C. Corman (Calif.).

17. 116 CONG. REC. 18997, 18998, 91st Cong. 2d Sess.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EXPENSES, AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301–1393); Sugar Act of 1948, as amended (7 U.S.C. 1101–1161); sections 7 to 15, 16(a), 16(d), 16(e), 16(f), 16(i), and 17 of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590g–590q); subtitles B and C of the Soil Bank Act (7 U.S.C. 1831–1837, 1802–1814, and 1816); and laws pertaining to the Commodity Credit Corporation, $152,690,000: *Provided*, That in addition, not to exceed $68,779,000 may be transferred to and merged with this appropriation from the Commodity Credit Corporation fund (including not to exceed $30,228,000 under the limitation on Commodity Credit Corporation administrative expenses): *Provided further*, That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this appropriation: *Provided further*, That no part of the funds appropriated or made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

MR. [PAUL] FINDLEY [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Findley: On page 23, line 8, after the word "regulations", strike the period, add a colon and the following:
>
> "*Provided further*, That none of the funds appropriated by this act shall be used during the period ending June 30, 1971 to formulate or carry out any 1971 crop-year program under which the total amount of payments to a person under such program would be in excess of $20,000."

MR. [JAMIE L.] WHITTEN (of Mississippi): Mr. Chairman, I reserve a point of order on the amendment. . . .

THE CHAIRMAN:[18] Does the gentleman from Mississippi desire to be heard on his point of order?

MR. WHITTEN: I do, Mr. Chairman.

If the Chair will note, the amendment is offered to a particular section of the bill, but the language provides that "none of the funds appropriated by this act," so it is a limitation, which means it applies to the Commodity Credit Corporation. The Commodity Credit Corporation was created under the laws of Delaware in 1933. It was given the power, it was given the right, and it was given the obligation of making payments, to make loans under the Corporation Control Act, and it was provided that nothing in that act should let the Congress prevent the corporation from discharging its func-

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

tions. I might say the same thing applies to the TVA.

I respectfully, therefore, submit, Mr. Chairman, that to change the Corporation Control Act and to relieve it of its responsibilities which have been carefully protected by the Congress on at least two occasions, even in the Anti-Deficiency Act, which was some years later, would take legislation. It can only be done that way, and since it would require legislation to change it, anything that has that effect here of necessity must be legislation. . . .

THE CHAIRMAN: The Chair is prepared to rule.

As the gentleman from Illinois declares, the point of order and the arguments supporting it have been offered on previous occasions, and on occasion by the gentleman from Mississippi, as recently as the 26th of May last year.

This point was made last year with respect to an amendment offered by the gentleman from Massachusetts (Mr. Conte), which, while not identical, is, in the opinion of the Chair, sufficiently similar to the presently offered amendment, as to govern.

On that occasion the gentleman from Massachusetts offered an amendment which would have provided:

> That no part of the funds appropriated by this Act shall be used to formulate or carry out any price support program (other than for sugar) under which payments aggregating more than $20,000 under all such programs are made to any producer or any crops planted in the fiscal year 1970.

On the basis of previous rulings of the Chair, it is the opinion of the present occupant of the chair, that the amendment offered by the gentleman from Illinois is a limitation on an appropriation bill and is therefore in order.

The point of order is overruled.

§ 67.33 To an Agriculture Department appropriation bill, an amendment specifying that none of the funds therein shall be used for commodity programs under which payments to any single farmer would exceed a certain dollar amount was held a proper limitation and in order.

On May 1, 1968,[19] during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 16913), a point of order was raised against the following amendment:

> The Clerk read as follows:
>
> Amendment offered by Mr. [Paul] Findley [of Illinois]: On page 33, line 5, after the word "hereof", strike the period and insert the following: "*Provided further*, That none of the funds appropriated by this Act shall be used to formulate or carry out price support or commodity programs during the period ending June 30, 1969, under which the total amount of payments in excess of $10,000 would be made to any single recipient as (1) incentive payments, (2) diversion payments, (3) price support payments, (4) wheat marketing certificate payments, (5) cotton equali-

19. 114 CONG. REC. 11281–88, 90th Cong. 2d Sess.

zation payments, and (6) crop-land adjustment payments."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I reserve a point of order against the amendment. . . .

Mr. Chairman, may I point out several things? The Commodity Credit Corporation was created as a corporation under the laws of Delaware some years ago. It was incorporated so as to have, in connection with the farm program, all the rights and responsibilities that a corporation under general law has.

This is the right to buy and sell and the right to discharge its responsibilities assigned to it by the Congress such as supporting the farm program which the Congress passed and the President signed. The very purpose of creating the Corporation was to be freed of restrictions such as we offered here, which any Congress might impose, from year to year, on appropriated bills, if the erroneous rulings are continued. . . .

The purpose of the Corporation's Charter Act is to avoid such action as is offered here which would make the Corporation a part of the Department of Agriculture. Through the years every time the Congress has tried to restrict this Corporation, the Congress has carefully provided that such act could not be used to keep the Corporation from discharging its duties and its functions under its charter.

Now, Mr. Chairman, I am going to ask you to reverse the prior decisions of other Chairmen who have presided, and have had this question before them. Also may I say the present amendment is very different from the one that we had before. This one reads:

None of the funds appropriated by this Act shall be used to formulate or carry out price support or commodity programs during the period ending June 30, 1969, under which the total amount of payments in excess of $10,000 would be made to any single recipient as (1) incentive payments——

The funds in this bill are to restore past losses. So I respectfully submit that the Corporation, being a corporation, has a right to hire its own employees. . . .

Mr. Chairman, I have with me here a brief, and I have sent a copy of this brief to the Parliamentarian earlier so I am sure he has had time to study it. My brief, which I shall present to you, points out that, if you will go through all of the legislation since this Corporation was set up as a corporation, you will see that Congress has carefully said that no action under appropriation bills should be taken to prevent the Corporation from performing its functions.

Mr. Chairman, I submit that you cannot limit the basic powers of the Corporation by the imposition of a restriction thereon in an appropriation bill because Congress has carefully seen that such a procedure could not prevent the Corporation from carrying out its responsibilities. . . .

THE CHAIRMAN:[20] The Chair has read the amendment and is ready to rule.

Consistent with the decision of Chairman Harris in 1965 and Chairman Kilday in 1959, and consistent with the Chair's own ruling on June 6, 1967, the Chair finds that the amendment is a limitation on appropriations.

20. James C. Corman (Calif.).

Restriction on Contract Authority Contained in Bill

§ 67.34 To a section of an Agriculture Department appropriation bill containing legislation authorizing the Secretary of Agriculture to make such additional commitments as may be necessary in order to provide full parity payments, an amendment providing that the payments shall not exceed an amount necessary to equal parity "when added to the market price and the payment made for conservation . . . of agricultural land resources," was held a proper limitation restricting the availability of funds which did not add further legislation to that already contained in the bill.

On Mar. 9, 1942,[1] during consideration in the Committee of the Whole of the Agriculture Department appropriation bill, the Clerk read the following provisions:

PARITY PAYMENTS

To enable the Secretary of Agriculture to make parity payments to producers of wheat, cotton, corn (in the commercial corn-producing area), rice, and tobacco pursuant to the provisions of section 303 of the Agricultural Adjustment Act of 1938, there are hereby reappropriated the unobligated balances of the appropriations made under this head by the Department of Agriculture Appropriation Acts for the fiscal years 1941 and 1942, to remain available until June 30, 1945, and the Secretary is authorized and directed to make such additional commitments or incur such additional obligations as may be necessary in order to provide for full parity payments: . . . *Provided further,* That such payments with respect to any such commodity shall be made with respect to a farm in full amount only in the event that the acreage planted to the commodity for harvest on the farm in 1943 is not in excess of the farm acreage allotment established for the commodity under the agricultural conservation program, and, if such allotment has been exceeded, the parity payment with respect to the commodity shall be reduced by not more than 10 percent for each 1 percent, or fraction thereof, by which the acreage planted to the commodity is in excess of such allotment. The Secretary may also provide by regulations for similar deductions for planting in excess of the acreage allotment for the commodity on other farms or for planting in excess of the acreage allotment or limit for any other commodity for which allotments or limits are established under the agricultural conservation program on the same or any other farm.

An amendment was offered as follows:

Amendment offered by Mr. (John) Taber (of New York): On page 77, line 5, after the word "farm," strike out the period, insert a colon and a proviso as

1. 88 CONG. REC. 2124, 2125, 77th Cong. 2d Sess.

follows: "*Provided further,* That parity payments, under the authority of this paragraph, shall not exceed such amount as is necessary to equal parity when added to the market price and the payment made or to be made for conservation and use of agricultural land resources under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended; and the provisions of the Agricultural Adjustment Act of 1938 as amended; *Provided further,* That the total expenditures made and the contracts entered into in pursuance of this paragraph shall not exceed in all $212,000,000.

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, I submit a point of order against the amendment proposed by the gentleman from New York [Mr. Taber]. . . .

MR. TABER: . . . The bill, on page 75, provides that the Secretary is authorized and directed to make such additional commitments or incur such additional obligations as may be necessary in order to provide for full parity payments.

That is legislation. It is brought in order under the rule. The language that I have submitted is clearly germane to that provision because it provides a method. It is purely a limitation to the payments that shall be made for parity under the authority of this paragraph. For this reason it is clearly germane and it is clearly in order.

It would be in order if there was no legislation in the paragraph because it is a pure limitation.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, may I be heard?

THE CHAIRMAN:[2] The Chair will hear the gentleman from South Dakota.

MR. CASE of South Dakota: Mr. Chairman, may I make the observation that if the proposal is clearly a limitation, even though it embraces some legislation, it is in order under the Holman rule.

THE CHAIRMAN: The Chair would like to ask the gentleman from New York [Mr. Taber] if there are any funds other than those appropriated in this bill to be used for parity payments?

MR. TABER: None.

THE CHAIRMAN: Just the funds in this bill?

MR. TABER: That is correct.

THE CHAIRMAN: The amendment the gentleman is offering is to limit the funds offered in this bill?

MR. TABER: That is my intention. I think perhaps I ought to insert after the word "payments" in the third line the words "under the authority of this paragraph." With that in, it would clearly be in order.

THE CHAIRMAN: Does the gentleman from New York [Mr. Taber] ask to modify his amendment?

MR. TABER: I do, Mr. Chairman.

THE CHAIRMAN: The gentleman from New York asks unanimous consent to modify his amendment by inserting after the word "payments" "under the authority of this paragraph." Is there objection to the request of the gentleman from New York [Mr. Taber]?

There was no objection.

THE CHAIRMAN: The gentleman from New York [Mr. Taber] has offered an amendment, on page 77, line 5, under-

2. Robert Ramspeck (Ga.).

taking to provide further limitations on the payment and the administration of parity payments, to which the gentleman from Georgia has made a point of order.

It seems to the Chair that the language of the amendment offered by the gentleman from New York constitutes a limitation upon the funds appropriated by this paragraph or proposed to be appropriated by this paragraph and does not constitute legislation.

The Chair therefore overrules the point of order.

Acreage Reserve, Payment Per Acre

§ 67.35 An amendment to an appropriation bill providing that no payment under the acreage reserve shall be made above $16 per acre out of the appropriation was held to be a limitation restricting the availability of funds in the bill and in order.

On Feb. 25 and 26, 1958,[3] The Committee of the Whole was considering H.R. 10881, a supplemental appropriation bill. The Clerk read as follows:

ACREAGE RESERVE PROGRAM

For an additional amount for "Acreage reserve program," fiscal year 1958, $250,000, which shall be available to formulate and administer an acreage reserve program in accord with the provisions of subtitles A and C of the Soil Bank Act (7 U.S.C. 1821–1824 and 1802–1814), with respect to the 1958 crops, in an amount not to exceed $175 million in addition to the amount specified for such purposes in Public Law 85–118.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Taber: On page 4, line 9, strike out the period and insert: "Provided, That no payment under acreage reserve shall be made above $16 per acre out of this appropriation."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I make a point of order against the amendment. . . .

. . . Under the basic act the Secretary has authority to set the rate of payment, and I respectfully submit that were this amendment to change that legislative authority which is vested in the Secretary of Agriculture, that it is legislation on an appropriation bill.

THE CHAIRMAN:[4] Does the gentleman from New York desire to be heard?

MR. TABER: It is a pure limitation on the funds involved in that paragraph. . . .

THE CHAIRMAN: The Chair will rule on the point of order that has been made. The point of order is not sustained.

Limit on Authorized Purchase of Motor Vehicles

§ 67.36 Language in a general appropriation bill providing

3. 104 CONG. REC. 2766, 2895, 85th Cong. 2d Sess.

4. Francis E. Walter (Pa.).

that not to exceed a certain amount of money be available for the purchase of motor vehicles was held to be a proper limitation on an appropriation bill for a purpose otherwise authorized by law.

On Apr. 23, 1937,[5] the Committee of the Whole was considering H.R. 6523, an Agriculture Department appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

FEDERAL-AID HIGHWAY SYSTEM

For carrying out the provisions of the act entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes", approved July 11, 1916 (39 Stat., pp. 355–359), and all acts amendatory thereof and supplementary thereto, to be expended in accordance with the provisions of said act, as amended, including not to exceed $556,000 for departmental personal services in the District of Columbia, $150,000,000. . . . *Provided further,* That not to exceed $45,000 of the funds provided for carrying out the provisions of the Federal Highway Act of November 9, 1921 (U.S.C., title 23, secs. 21 and 23), shall be available for the purchase of motor-propelled passenger-carrying vehicles necessary for carrying out the provisions of said act, including the replacement of not to exceed one such vehicle for use in the administrative work of the Bureau of Public Roads in the District of Columbia. . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order that the part of the paragraph beginning with the word "Provided', on page 72, line 13, and running down as far as the word "Columbia", in lines 21 and 22, is not authorized by law.

This refers to the purchase of automobiles. . . .

Mr. [CLARENCE] CANNON of Missouri: Mr. Chairman, this is merely a limitation. Otherwise the whole amount could be spent for automobiles. This proviso limits the amount which may be used. It is not legislation, and is not subject to a point of order. . . .

The Chairman:[6] The Chair is ready to rule.

The Chair overrules the point of order on the ground that the proviso constitutes a limitation, without which the Secretary could spend any amount within the total of the appropriation for this purpose.

Parliamentarian's Note: While the language in the bill was not specifically limited to the funds appropriated, the Chair evidently did construe it as limited to the appropriated funds.

§ 68. Civil Liberties

Segregation by Race, Color, Creed; Limitation on Funds

§ 68.1 An amendment to a District of Columbia appropria-

5. 81 CONG. REC. 3783, 3784, 75th Cong. 1st Sess.

6. Franklin W. Hancock, Jr. (N.C.).