

to the Chair that it is clearly within the rules of the House as a limitation on an appropriations bill.

THE CHAIRMAN: The Chair has examined the amendment and feels that it is a valid limitation on the funds made available in the bill and overrules the point of order.

## § 71.—Military Contracts

### *Conventional Powerplant for Ship*

**§ 71.1 To a bill appropriating funds for defense procurement, an amendment providing that none of the funds therein shall be available for paying the cost of a conventional powerplant for a designated ship was held to be a proper limitation and in order even though it was apparent that there were no funds in the bill for the ship in question.**

On Apr. 22, 1964,<sup>(5)</sup> the Committee of the Whole was considering H.R. 10939, a Department of Defense appropriation bill. A point of order against an amendment was overruled as follows:

Amendment offered by Mr. [Craig] Hosmer [of California]: On page 42, line 18, after line 18 insert a new sec-

5. 110 CONG. REC. 8802, 88th Cong. 2d Sess.

tion 540—and renumber the following sections—to read as follows:

“None of the funds appropriated herein shall be available for paying the cost of a conventional powerplant for CVA-67.”

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I make the point of order that there are no funds in this bill for an aircraft carrier.

THE CHAIRMAN:<sup>(6)</sup> Does the gentleman desire to be heard on the point of order?

MR. HOSMER: Yes, I do.

THE CHAIRMAN: The Chair will be pleased to hear him.

MR. HOSMER: My point is, It is irrelevant whether or not there are any funds in this bill. An amendment of this nature will lie irrespective.

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

. . . Apparently the only basis for that point of order is that there are no funds in the pending bill to accomplish that which is sought to be accomplished by the amendment. As futile, therefore, as the amendment might be, it is in fact a limitation of the funds herein appropriated and the Chair therefore overrules the point of order.

### *Retired Military Officers Employed by Defense Contractors; Incidental Duties Imposed on Officials*

**§ 71.2 Where the manifest intent of a proposed amendment is to impose a negative limitation on the use of funds**

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**appropriated in the bill, the implication that the administration of the limitation will impose certain incidental burdens on executive officers does not destroy the character of the limitation. For example, an amendment providing that none of the funds appropriated in a bill could be used to enter into contracts with any concern having on its payroll a retired or inactive military officer was held to be a limitation and in order.**

On June 3, 1959,<sup>(7)</sup> the Committee of the Whole was considering H.R. 7454, a Department of Defense appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

CONSTRUCTION OF SHIPS, MILITARY  
SEA TRANSPORTATION SERVICE, DE-  
PARTMENT OF DEFENSE

The appropriation to the Department of Defense for "Construction of ships, Military Sea Transportation Service," shall not be available for obligation after June 30, 1959.

MR. [ALFRED E.] SANTANGELO [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Santangelo: On page 25, after line 17, add new section, as follows:

7. 105 CONG. REC. 9741, 9742, 86th Cong. 1st Sess.

GENERAL PROVISIONS

"Sec. 301. None of the funds contained in this Title may be used to enter into a contract with any person, organization, company or concern which provides compensation to a retired or inactive military or naval general officer who has been an active member of the military forces of the United States within 5 years of the date of enactment of this act." . . .

MR. [GERALD R.] FORD [of Michigan]: Mr. Chairman, it is legislation on an appropriation bill. I will reserve a point of order. . . .

Mr. Chairman, I renew my point of order. . . .

THE CHAIRMAN:<sup>(8)</sup> The Chair is prepared to rule. . . .

It is obvious that the intent of this amendment is to impose a limitation on the expenditure of the funds here appropriated, and while the point might be made that imposing limitations will impose additional burdens, it is nevertheless the opinion of the Chair clearly a limitation on expenditures, and therefore the Chair overrules the point of order.

*Parliamentarian's Note:* In a similar ruling, on May 5, 1960, the Chair allowed an amendment stating in part:

None of the funds contained in this Title may be used to pay or reimburse any Defense Contractor which . . . within two years from the release from active duty of a retired commissioned officer knowingly permits any such retired commissioned officer to sell or aid in the selling of anything of value to

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the Department of Defense or an Armed Force of the United States.<sup>(9)</sup>

In the current practice, however, it would probably be held that the language denying funds to contractors who “knowingly” permit retired officers to participate in the sales in question constitutes legislation, in that it places on administrative officials the additional burden of making findings as to the intent or state of knowledge of the defense contractors described.

***Resale of Subsidized Commodities***

**§ 71.3 An amendment to the war agencies appropriation bill providing that no part of the appropriation in the pending bill shall be used for payment to any person who pays any subsidy, authorizes the payment of a subsidy, or participates in any of several stated manners in the payment of subsidies involving the purchase of any commodity by the government for the purpose of its resale at a lower price than that paid by the government was held to be a proper limitation and in order.**

9. 106 CONG. REC. 9632, 9634–36, 86th Cong. 2d Sess.

On June 18, 1943,<sup>(10)</sup> the Committee of the Whole was considering H.R. 2968. The Clerk read as follows:

Salaries and expenses: For all necessary expenses of the Office of Price Administration in carrying out the provisions of the Emergency Price Control Act of 1942, as amended by the act of October 2, 1942 (50 U.S.C. App. 901), and the provisions of the act of May 31, 1941 (55 Stat. 236), as amended by the Second War Powers Act, 1942 (50 U.S.C. App. 622), and all other powers, duties, and functions which may be lawfully delegated to the Office of Price Administration . . . \$165,000,000 . . . [Provided], That no part of this appropriation shall be available for making any subsidy payments: *Provided further*, That no part of this appropriation shall be used to enforce any maximum price or prices on any agricultural commodity or any commodity processed or manufactured in whole or substantial part from any agricultural commodity unless and until (1) the Secretary of Agriculture has determined and published for such agricultural commodity the prices specified in section 3(a) of the Emergency Price Control Act of 1942; (2) in case of a comparable price for such agricultural commodity, the Secretary of Agriculture has held public hearings and determined and published such comparable price in the manner prescribed by section 3(b) of said act; and (3) the Secretary of Agriculture has determined after investigation and proclaimed that the maximum price or prices so established on any

10. 89 CONG. REC. 6111, 78th Cong. 1st Sess.

such agricultural commodity will reflect to the producer of such agricultural commodity a price in conformity with section 3(c) of said act: *Provided further*, That any employee of the Office of Price Administration is authorized and empowered, when designated for the purpose by the head of the agency, to administer to or take from any person an oath, affirmation, or affidavit when such instrument is required in connection with the performance of the functions or activities of said Office.

An amendment was offered, as follows: <sup>(11)</sup>

Amendment offered by Mr. [Everett M.] Dirksen [of Illinois]: Page 13, after line 3, add the following: "*Provided further*, That no part of any appropriation contained herein shall be used for payment of the salary or expense of any person who, directly or indirectly, pays any subsidy of any kind or character whatsoever, or who directs or authorizes the payment of a subsidy, or who participates in the preparation of or calculations for the payment of a subsidy, or who directs any other person to pay or prepare or calculate or supply information for the payment of a subsidy, or any person who, directly or indirectly, collaborates with, consults, cooperates with, or directly or indirectly aids any other Federal agency for the payment or the preparation of a subsidy; or of any person who engages or participates as aforesaid in the preparation, formulation, or carrying out of any plan or scheme involving the purchase of any commodity by the Govern-

ment for the purpose of its resale at a price lower than that paid by the Government."

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN: <sup>(12)</sup> The gentleman will state it.

MR. CELLER: Mr. Chairman, I make the point of order that the amendment offered by the gentleman from Illinois is not germane and is legislation on an appropriation bill. The rule under which this bill was brought into this Chamber waived all points of order with reference to limitations that were engrafted on the bill itself by the Appropriations Committee. For example, a proviso was inserted to the effect that no part of this appropriation shall be available for making any subsidy payments. This type of provision was made impervious to a point of order by the rule which brought this bill into this Chamber, but I believe the rule would not preclude a point of order I now make with reference to the amendment the gentleman from Illinois has offered. So I make the point of order that the amendment is legislation on an appropriation bill and not a mere limitation of amount of appropriation nor a mere limitation of purpose of the appropriation.

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

MR. DIRKSEN: Yes, Mr. Chairman. The point needs no belaboring. This is purely a limitation.

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from New York makes the point of order against the

11. *Id.* at p. 6123.

12. John J. Sparkman (Ala.).

amendment that it is legislation on an appropriation bill and that it is not germane. The Chair thinks that the amendment is a limitation and is not subject to the point of order, and therefore overrules the point of order.

### ***Inventions From Research and Development***

**§ 71.4 An amendment providing that none of the funds appropriated in the bill may be used to enter into research or development contracts under which new inventions or patents, conceived in the process of performing the contract, do not become the property of the United States was held to be a limitation restricting the availability of funds and in order.**

On May 5, 1960,<sup>(13)</sup> the Committee of the Whole was considering H.R. 11998, which included the appropriation of funds for research and development to be carried out directly by government personnel and by contract. The following proceedings took place:

MR. [HARRIS B.] McDOWELL [JR., OF DELAWARE]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McDowell: On page 29, after line 13, insert the following:

**13.** 106 CONG. REC. 9624, 9627, 86th Cong. 2d Sess.

“Sec. 501. None of the funds appropriated in this Act shall be available for making payments on any research or development contract under which any invention, improvement, or discovery conceived or first actually reduced to practice in the course of performance of such contract or any subcontract thereof, or under which any patent based on such invention, improvement, or discovery, does not become the property of the United States.”

And renumber the following sections accordingly. . . .

THE CHAIRMAN:<sup>(14)</sup> The gentleman will state his point of order.

MR. [GEORGE H.] MAHON [of Texas]: The point of order is that this proposed amendment would imply additional duties beyond the scope of the bill.

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

MR. McDOWELL: Yes; I do, Mr. Chairman.

Mr. Chairman, I cited to the Chair certain Hinds' and Cannon's precedents which adequately demonstrate that the amendment does not in any way restrict the administrative procedures under the act. It is not retroactive in any sense of the word. With that, I simply leave the matter at this point to the Chair for a ruling.

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from Delaware [Mr. McDowell] offered an amendment in the language heretofore reported, and a point of order was made by the gentleman from Texas [Mr. Mahon] that it was, in effect, legislation on an appropriation bill, imposing additional du-

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

ties on the executive branch of the Government.

The Chair has had an opportunity to reread the language of the amendment and to refer to the precedents applicable, in the opinion of the Chair, thereto. It is the opinion of this occupant of the chair that the amendment offered by the gentleman from Delaware is, in fact, a limitation on the appropriations appropriated in this act, and while it may be argued that the limitation imposed causes or results in additional burdens on the executive branch, in the opinion of this occupant of the chair, that is normal and reasonable to expect in the carrying out of the limitation.

Therefore, the Chair is constrained to overrule the point of order.

The point of order is overruled.

***Prohibiting Funds for Contracts Containing Specified Clause***

***Conditions for Dispute Settlement***

**§ 71.5 Language in an appropriation bill providing that no funds in the bill shall be used for the purpose of entering into contracts containing a certain condition was held to be a proper limitation restricting the availability of funds and in order.**

On Apr. 9, 1952,<sup>(15)</sup> the Committee of the Whole was consid-

15. 98 CONG. REC. 3891, 82d Cong. 2d Sess.

ering H.R. 7391, a Department of Defense appropriation bill. The Clerk read as follows:

Sec. 635. No funds contained in this act shall be used for the purpose of entering into contracts containing article 15 of the Standard Government Contract, which reads as follows:

“Disputes: Except as otherwise specifically provided in this contract, all disputes concerning questions of fact arising under this contract shall be decided by the contracting officer subject to written appeal by the contractor within 30 days to the head of the department concerned or his duly authorized representative, whose decision shall be final and conclusive upon the parties thereto. In the meantime the contractor shall diligently proceed with the work as directed.”

MR. [OVERTON] BROOKS [of Louisiana]: Mr. Chairman, I make a point of order against the language in Section 365 on the ground that it is legislation on an appropriation bill.

THE CHAIRMAN:<sup>(16)</sup> If no one desires to be heard on the point of order, the Chair is ready to rule. The Chair holds, after careful consideration of the paragraph to which the gentleman from Louisiana makes a point of order, that the language is a limitation on an appropriation bill and therefore overrules the point of order.

**§ 72. District of Columbia**

***Public Assistance; Apportionment to Escape Deficiency***

**§ 72.1 An amendment to the District of Columbia appro-**

16. James W. Trimble (Ark.).