

**§ 12.11 Pursuant to law (19 USC § 1330(e)), appropriations for the International Trade Commission must be specifically authorized by laws enacted after 1975; funds in a general appropriation bill for the International Trade Commission were conceded to be unauthorized by law for fiscal 1979 and were ruled out in violation of Rule XXI clause 2.**

On June 14, 1978,<sup>(11)</sup> during consideration of H.R. 12934 (Departments of State, Justice, Commerce, and the Judiciary appropriation for fiscal 1979), a point of order was sustained against the following provision:

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, \$12,800,000.

MR. [JOHN H.] ROUSSELOT [of California]: Mr. Chairman, on the basis of rule XXI, clause 2, I make a point of order that this is an unauthorized appropriation and has not been authorized by law.

MR. [JOHN M.] SLACK [of West Virginia]: Mr. Chairman, I concede the point of order.

THE CHAIRMAN:<sup>(12)</sup> The point of order is conceded, sustained, and the paragraph is stricken.

11. 124 CONG. REC. 17630, 95th Cong. 2d Sess.

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

## **§ 13. Defense and Veterans**

### *Veterans' Administration*

**§ 13.1 Language in a general appropriation bill including funds for Veterans' Administration operating expenses, providing expenses for the issuance of memorial certificates to families of deceased veterans, was conceded to be unauthorized by law.**

On May 11, 1965,<sup>(13)</sup> during consideration in the Committee of the Whole of the independent offices appropriations bill (H.R. 7997), a point of order was raised against the following provision:

The Clerk read as follows:

#### VETERANS ADMINISTRATION

##### *General operating expenses*

For necessary operating expenses of the Veterans Administration, not otherwise provided for, including expenses incidental to securing employment for [and recognition of war veterans;] uniforms or allowances therefor, as authorized by law; not to exceed \$1,000 for official reception and representation expenses; purchase of one passenger motor vehicle (medium sedan for replacement only) at not to exceed \$3,000; and reimbursement of the General Services Administration for security guard services; \$157,000,000: *Provided*, That no part of this appropriation shall be used to pay in excess of

13. 111 CONG. REC. 10166, 89th Cong. 1st Sess.

twenty-two persons engaged in public relations work. . . .

MR. [ROBERT J.] DOLE [of Kansas]: Mr. Chairman, I make a point of order against the language on page 39, commencing in line 18 with the words "and recognition of war veterans" on the basis that it is legislating in an appropriation bill and not authorized.

THE CHAIRMAN:<sup>(14)</sup> Does the gentleman from Texas [Mr. Thomas] wish to be heard on the point of order?

MR. [ALBERT] THOMAS: Does the gentleman wish that the words "war veterans" go with it? If the gentleman does, the gentleman's point of order is good, if the gentleman insists upon it. I hope the gentleman does not. The gentleman knows what the program is. It is not too expensive. It is a recognition to which certainly any deceased veteran's family is entitled. But if my distinguished friend insists upon it, we have to admit the point of order is good, because it is.

MR. DOLE: I will say to the gentleman that I shall insist upon the point of order. There is legislation pending now and the projected cost of this little program is \$4.2 million. On that basis, Mr. Chairman, I insist upon the point of order.

THE CHAIRMAN: The gentleman makes a point of order against the language on line 18 and the point of order is good and the Chair sustains it.

### *Committee on Fair Employment Practice*

#### **§ 13.2 An amendment to a war agencies appropriation bill**

14. Richard Bolling (Mo.).

#### **making an appropriation for the Fair Employment Practice Committee was held unauthorized by law.**

On June 8, 1945,<sup>(15)</sup> the Committee of the Whole was considering H.R. 3368, a war agencies appropriation.

Amendment offered by Mr. Marcantonio: Page 35, after line 24, insert the following new paragraph:

"Fair Employment Practice Committee: For all necessary salaries and expenses, \$599,000."

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, a point of order.

THE CHAIRMAN:<sup>(16)</sup> The gentleman will state the point of order.

MR. RANKIN: Mr. Chairman, I make the point of order that the amendment is not germane, it is not in order on this bill, it is legislation on an appropriation bill and it is not authorized by law. . . .

THE CHAIRMAN: The point of order is well taken. It is . . . not authorized by law. The point of order is sustained.

### *Foreign Military Assistance*

#### **§ 13.3 Appropriations to enable the President, through such departments or agencies of the government as he might designate, further to carry out the provisions of the act**

15. 91 CONG. REC. 5831, 79th Cong. 1st Sess.

16. John J. Sparkman (Ala.).

**of Mar. 11, 1941, to promote the defense of the United States, were held authorized by the act cited and were not a conferral of new authority on the President.**

On Dec. 5, 1941,<sup>(17)</sup> the Committee of the Whole was considering H.R. 6159, a supplemental appropriation for national defense. At one point the Clerk read as follows:

TITLE III—DEFENSE AID

Sec. 301. To enable the President, through such departments or agencies of the Government as he may designate, further to carry out the provisions of an act to promote the defense of the United States, approved March 11, 1941, and for each and every purpose incident to or necessary therefor, the following sums for the following respective purposes, namely:

(a) For the procurement, by manufacture or otherwise, of defense articles, information, and services for the government of any country whose defense the President deems vital to the defense of the United States, and the disposition thereof, including all necessary expenses in connection therewith, as follows:

(1) Ordnance and ordnance stores, supplies, spare parts, and materials, including armor and ammunition and components thereof, \$830,507,246. . . .

(6) Facilities and equipment for the manufacture, production, or operation

of defense articles and for otherwise carrying out the purposes of the act of March 11, 1941, including the acquisition of land, and the maintenance and operation of such facilities and equipment, \$125,000,000. . . .

(c) Each of the foregoing appropriations shall be additional to, and consolidated with, the appropriations for the same purposes contained in section 1 (a) of the Defense Aid Supplemental Appropriation Act, 1941, and section 101 (a) of the Defense Aid Supplemental Appropriation Act, 1942, and the proviso in section 101 (f) of such latter act shall be applicable to such consolidated appropriations.

Sec. 302. Any defense article procured pursuant to this title shall be retained by or transferred to and for the use of such department or agency of the United States as the President may determine, in lieu of being disposed of to a foreign government, whenever in the judgment of the President the defense of the United States will be best served thereby. . . .

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Chairman, I make the point of order against title III that it is legislation on an appropriation bill.

THE CHAIRMAN:<sup>(18)</sup> Will the gentleman point out for the benefit of the Chair what there is in the title that is legislation?

MR. RICH: It reads as follows:

To enable the President, through such departments or agencies of the Government as he may designate, further to carry out the provisions of an act to promote the defense of the United States.

It gives the President of the United States power here.

17. 87 CONG. REC. 9482, 77th Cong. 1st Sess.

18. Robert Ramspeck (Ga.).

THE CHAIRMAN: The Chair will be glad to hear the gentleman from Missouri on the point of order.

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, that is merely a repetition of what is in the act of March 11, 1941, which fully authorizes every item in the title with the exception of section 302, and that paragraph is no longer subject to a point of order because consent has been given to consider it and allow amendments to be offered to it. Section 3 of Public Law No. 11 of the Seventy-seventh Congress provides in full for the authorizations necessary to the consideration of this title.

THE CHAIRMAN: The Chair has examined the act of March 11, 1941, which authorizes the appropriations contained in this title, and the Chair overrules the point of order.

***Travel and Other Expenses Incidental to Authorized Program***

**§ 13.4 An appropriation for travel by privately owned automobiles and per diem expenses of personnel of the Office of Contract Settlement, Office of War Mobilization and Reconversion was held authorized by a general provision in the law establishing that office.**

On Dec. 6, 1944,<sup>(19)</sup> the Committee of the Whole was consid-

<sup>19</sup>. 90 CONG. REC. 8939, 78th Cong. 2d Sess.

ering H.R. 5587, a supplemental appropriation bill. A point of order was raised against the following provision in the bill:

OFFICE OF WAR MOBILIZATION AND RECONVERSION, OFFICE OF CONTRACT SETTLEMENT

For all necessary expenses, fiscal year 1945, of the Office of Contract Settlement established by the Contract Settlement Act of 1944, including fees and expenses of witnesses; travel expenses, including (1) expenses of attendance at meetings of organizations concerned with the work of said office, (2) actual transportation and other necessary expenses and not to exceed \$10 per diem in lieu of subsistence of persons serving while away from their permanent homes or regular places of business in an advisory capacity to or employed by the Office of Contract Settlement without other compensation from the United States, or at \$1 per annum, and (3) upon the approval of the Director of Contract Settlement, expenses to and from their homes or regular places of business in accordance with the Standardized Government Travel Regulations, including travel in privately owned automobiles (and including per diem in lieu of subsistence at place of employment), of persons employed intermittently away from their homes or regular places of business as consultants and receiving compensation on a per diem when actually employed basis. . . .

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Chairman, I make the point of order against the paragraph beginning on page 5, line 17, and running down to and including line 17 on page

6, that it is legislation on an appropriation bill. . . .

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, this provision is in order under the new law, that has just been enacted at this session of Congress, the Office of Contract Settlement law, Public Law No. 395, Seventy-eighth Congress, second session.

MR. HOFFMAN: Mr. Chairman, I call the attention of the Chair to the language on page 6 beginning with "(3)." That is legislation.

MR. CANNON of Missouri: These are merely expenses incidental to the conduct of any office authorized by law, Mr. Chairman, and unquestionably are in order on the bill as proposed. The law itself imposed no restrictions whatever. . . .

THE CHAIRMAN:<sup>(20)</sup> The Chair refers to lines 7 to 12.

MR. CANNON of Missouri: Mr. Chairman, that is with respect to travel. This is in the nature of a limitation, referring to the limitation set by the standardized Government travel regulations. If that was not included here, there would be no limitation. It could not be subject to a point of order.

THE CHAIRMAN: Does the gentleman maintain that it is an authorization for travel in privately owned automobiles?

MR. CANNON of Missouri: Mr. Chairman, this merely provides in the usual way, as in all the departments, the authority to carry out the law as enacted in Public Law No. 395. I do not see how it could be construed in any other way. It is the method and the means ordinarily provided in all the departments for carrying out legislation of this character.

THE CHAIRMAN: Will the gentleman from Missouri, referring to line 23, on page 5, state whether there is any authority in law for payment of \$10 per diem in lieu of subsistence of persons serving while away from their permanent homes?

MR. CANNON of Missouri: Mr. Chairman, when a law is enacted by Congress, the authorization provides for the administration of that law, both as to its spirit and its letter. The authorization here involves and includes all the methods ordinarily used by the departments in the administration of such laws. It would be inconsistent to enact a law and then hold there is no authorization to administer it.

These are not extraordinary provisions. These are ordinary provisions under which all laws of this character are enforced. . . .

THE CHAIRMAN: The Chair wishes to call to the attention of the gentleman from Michigan section 22, "Use of appropriated funds," item (b) of the Contract Settlement Act:

To use any such funds appropriated, allocated, or available to it for expenditures for or in behalf of any other contracting agency for the purposes authorized in this act.

Therefore the Chairman overrules the point of order.

### ***Construction and Improvement of Barracks***

#### **§ 13.5 An appropriation for the construction and improvement of barracks for enlisted men and quarters for non-commissioned officers of the**

20. Herbert C. Bonner (N.C.).

**Army was held not authorized by law.**

On Feb. 13, 1936,<sup>(1)</sup> the Committee of the Whole was considering H.R. 11035, a War Department appropriation. A point of order was raised against an amendment to the following paragraph:

For the equipment and conduct of school, reading, lunch, and amusement rooms, service clubs, chapels, gymnasiums, and libraries, including periodicals and other publications and subscriptions for newspapers, salaries of civilians employed in the hostess and library services, transportation of books and equipment for these services, rental of films, purchase of slides for and making repairs to moving-picture outfits, and for similar and other recreational purposes at training and mobilization camps now established or which may be hereafter established, \$34,940.

MR. [FRANCIS D.] CULKIN [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Culkin: After the period in line 24, page 9, insert a new paragraph, as follows:

"For the construction or betterments of barracks for enlisted men and quarters for noncommissioned officers, staff or otherwise, the sum of \$50,000,000, to be allocated by the Quartermaster General in the manner heretofore authorized by Congress.

MR. [TILMAN B.] PARKS [of Arkansas]: Mr. Chairman, I make the point

of order against the amendment that it is not authorized by law and therefore is not in order, and, in addition, it is legislation on an appropriation bill.

THE CHAIRMAN:<sup>(2)</sup> The Chair is ready to rule. The amendment proposed by the gentleman from New York is for the construction or betterment of barracks for enlisted men and quarters for noncommissioned officers, staff or otherwise, the sum of \$50,000,000, to be allocated by the Quartermaster General in the manner heretofore authorized by Congress.

The Chair has been unable to find any law authorizing this appropriation, and the Chair thinks no authorization has been made to include the sum of \$50,000,000, and no legislation has been had authorizing the disbursement of the money by the Quartermaster General, and therefore sustains the point of order.

MR. CULKIN: Mr. Chairman, I defer to the Chair's ruling, but may I later present it if I find such legislation? I now offer another amendment.

The Clerk read as follows:

Amendment by Mr. Culkin: Page 9, after line 24, insert the following: "For the construction or betterment of barracks for enlisted men and quarters for noncommissioned officers, staff or otherwise, the sum of \$50,000,000."

MR. PARKS: Mr. Chairman, I make the same point of order stated a moment ago.

THE CHAIRMAN: The Chair is ready to rule. This amendment of the gentleman from New York proposes to appropriate \$50,000,000 for the construc-

1. 80 CONG. REC. 1983, 1984, 74th Cong. 2d Sess.

2. Claude V. Parsons (Ill.).

tion or betterment of barracks for enlisted men, and so forth, as the other amendment provided. In the law regarding the construction or improvements of barracks, the Chair finds the following language in title 10, section 1339, of the United States Code:

Permanent barracks or quarters and buildings and structures of a permanent nature shall not be constructed unless detailed estimates shall have been previously submitted to Congress, and approved by a special appropriation for the same, except when constructed by the troops; and no such structures, the cost of which shall exceed \$20,000, shall be erected unless by special authority of Congress.

That special authority the Chair thinks has not been granted and, therefore, sustains the point of order, because it is legislation on an appropriation bill.

*Parliamentarian's Note:* The Chair evidently construed the cited provision in title 10 to require, for structures over \$20,000, a separate authorization in law. For structures under that amount, approval by a special appropriation would have been adequate.

***Substituting Conventional for Nuclear Naval Vessel; Both Unauthorized***

**§ 13.6 For an item in a general appropriation bill containing funds for a nuclear aircraft carrier program, against which points of order had been waived for failure of**

**the authorization bill to be enacted into law, a substitute amendment striking out those funds and inserting unauthorized funds for a conventional-powered aircraft carrier program was ruled out under Rule XXI clause 2, as unprotected by the waiver against the bill.**

On Aug. 7, 1978,<sup>(3)</sup> the Chair ruled that, an unauthorized item in a general appropriation bill being permitted to remain by a special rule waiving points of order, figures in such item may be perfected but the provision may not be changed by an amendment substituting funds for a different and specified unauthorized purpose. The proceedings are discussed in § 3.45, supra.

**§ 14. District of Columbia**

***Office of Corporation Counsel***

**§ 14.1 A paragraph in a general appropriation bill for the District of Columbia permitting the use of funds in the bill by the Office of the Corporation Counsel to retain professional experts at rates fixed by the commissioner**

3. 124 CONG. REC. 24710-12, 95th Cong. 2d Sess.