

chase, or acquisition has not been approved by resolutions adopted by the Committees on Public Works of the Senate and House of Representatives, respectively.

Mr. Chairman, the law is clear that prior to the appropriation of funds for the construction or alteration of a public building which cost shall exceed \$500,000, a resolution must be reported by your House Committee on Public Works and Transportation approving such authorization. This action has not occurred to date. . . .

MR. [EDWARD R.] ROYBAL [of California]: . . . It is my understanding that the prospectuses for the construction that is in the bill have not been approved; is that correct?

MR. YOUNG of Missouri: Mr. Chairman, they have not been approved by our subcommittee nor by the full committee.

MR. ROYBAL: Since they have not been approved by any of the committees, I will concede the point of order, Mr. Chairman. . . .

THE CHAIRMAN: The point of order is conceded and sustained.

§ 20. Other Purposes

Civil Defense

§ 20.1 Language in an appropriation bill making funds available for distribution of radiological instruments and detection devices to states by loan or grant, for civil defense purposes, was conceded to be without author-

ization and was ruled out on a point of order.

On Mar. 20, 1957,⁽¹⁾ during consideration in the Committee of the Whole of H.R. 6070, a bill making appropriations for sundry executive bureaus, a point of order was sustained against language therein, as indicated below:

Emergency supplies and equipment: For expenses necessary for warehousing and maintenance of reserve stocks of emergency civil-defense materials as authorized by subsection (h) of section 201 of the Federal Civil Defense Act of 1950, as amended, and for distribution of radiological instruments and detection devices to the several States, and the District of Columbia, and the Territories and possessions of the United States, by loan or grant, for training and educational purposes, under such terms and conditions as the Administrator shall prescribe, \$3,300,000.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, a point of order.

THE CHAIRMAN:⁽²⁾ The gentleman will state it.

MR. GROSS: Mr. Chairman, I make the point of order against the following language, beginning in line 19 of page 5, "for distribution of radiological instruments and detection devices to the several States, the District of Columbia, and the Territories and possessions of the United States, by loan or grant, for training and educational

1. 103 CONG. REC. 4046, 85th Cong. 1st Sess.
2. Frank N. Ikard (Tex.).

purposes, under such terms and conditions as the Administrator shall prescribe," on the ground that the distribution of such radiological instruments and detection devices is not authorized in the organic legislation governing the Federal Civil Defense Administration, Public Law 920 of the 81st Congress, 2d session, as amended, and therefore is in violation of rule XXI, paragraph 2, of the Rules of the House of Representatives.

MR. [ALBERT] THOMAS [of Texas]: Mr. Chairman, we concede the point of order.

THE CHAIRMAN: The point of order is sustained.

Congressional Committee Investigative Staff

§ 20.2 An appropriation for employment by the Committee on Appropriations of 50 qualified persons to check upon progress of contracts let by the United States and to report upon any waste, unnecessary additions to cost, or negligence, was not authorized by law.

On June 16, 1942,⁽³⁾ the Committee of the Whole was considering H.R. 7232, a deficiency appropriation. At one point the Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. Voorhis of California: Page 2, line 22, insert:

3. 88 CONG. REC. 5252, 77th Cong. 2d Sess.

"For the purpose of enabling the Appropriations Committee to employ the services of not to exceed 50 highly qualified persons to maintain a constant check upon the progress of contracts let by the United States, or any department thereof, and to report upon any avoidable waste, unnecessary additions to cost, negligence, or other matters increasing the cost of such contracts to the United States, \$500,000."

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, I make a point of order against the amendment that it proposes legislation on an appropriation bill. . . .

THE CHAIRMAN:⁽⁴⁾ Will the gentleman from California state to the Chair whether he knows of any legislation authorizing the appropriations proposed in this amendment?

MR. [H. JERRY] VOORHIS of California: No; I do not know of any legislation authorizing such expenditures.

THE CHAIRMAN: Unless there is legislation authorizing the appropriation, the Chair is constrained to sustain the point of order made by the gentleman from Missouri.

Congressional Parking Lot

§ 20.3 To the legislative appropriation bill, an amendment providing funds for a parking lot for the use of Members and employees of Congress was ruled out because unauthorized by law.

On May 15, 1952,⁽⁵⁾ during consideration in the Committee of the

4. Wilbur D. Mills (Ark.).

5. 98 CONG. REC. 5283, 82d Cong. 2d Sess.

Whole of the legislative appropriation (H.R. 7313), a point of order was raised against the following amendment:

MR. [WALTER F.] HORAN [of Washington]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Horan:

On page 15, line 9, after the semicolon and after the word "and", insert the following new language: "for converting reservations 6-C and 6-E on Canal Street into a parking lot for the use of Members and employees of Congress."

On page 15, line 13, strike out the amount "\$218,500" and insert in lieu thereof the amount "\$69,500."

MR. [CHRISTOPHER C.] McGRATH [of New York]: Mr. Chairman, I make a point of order against the amendment on the ground that it is legislation on an appropriation bill. I will reserve the point of order. . . .

Mr. Speaker, I insist on my point of order.

MR. HORAN: Mr. Chairman, I concede the point of order.

THE CHAIRMAN:⁽⁶⁾ The gentleman from Washington concedes the point of order.

The point of order is sustained.

Expenses of Presidential Committee on Education

§ 20.4 To an appropriation bill, an amendment providing for expenses of the President's Committee on Education Be-

6. J. Percy Priest (Tenn.).

yond High School was admitted to be unauthorized and was ruled out on this basis.

On July 12, 1956,⁽⁷⁾ the Committee of the Whole was considering H.R. 12138, a supplemental appropriation bill. At one point the Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. [Antonio M.] Fernandez [of New Mexico]: On page 21, at the end of line 6, add a new paragraph as follows:

"PRESIDENT'S COMMITTEE ON EDUCATION BEYOND THE HIGH SCHOOL, EXECUTIVE OFFICE OF THE PRESIDENT"

"For necessary expenses of the President's Committee on Education Beyond the High School, including services authorized by section 15 of the act of August 2, 1946 (5 U.S.C. 55a), at rates not to exceed \$50 per diem for individuals; expenses of attendance at meetings concerned with the purposes of the committee; and actual transportation expenses and an allowance of not to exceed \$12 per diem in lieu of subsistence while away from their homes or regular places of business, for persons attending conferences called by the committee: \$300,000." . . .

MR. [JOHN E.] FOGARTY [of Rhode Island]: Mr. Chairman, I insist on the point of order that this is not authorized by law and that the gentleman's

7. 102 CONG. REC. 12555, 12556, 84th Cong. 2d Sess.

amendment is legislation on an appropriation bill.

THE CHAIRMAN:⁽⁸⁾ The gentleman from New Mexico [Mr. Fernandez] has offered an amendment which has been reported by the Clerk. The gentleman from Rhode Island [Mr. Fogarty] has made the point of order that this appropriation is not authorized.

The gentleman from New Mexico in his remarks on his amendment stated that authorization had not been had, and that it was not authorized by law.

Therefore the Chair sustains the point of order.

Executive Departments—Travel Expenses

§ 20.5 Language in an appropriation bill making all appropriations for the executive departments and independent establishments available under Presidential regulations for expenses of transportation of new appointees and their families from their places of residence to places of employment outside the continental United States and back was held unauthorized by law and legislation on an appropriation bill.

On Feb. 8, 1945,⁽⁹⁾ the Committee of the Whole was consid-

⁸. Paul J. Kilday (Tex.).

⁹. 91 CONG. REC. 964, 79th Cong. 1st Sess.

ering H.R. 1984, an independent offices appropriation. When the following paragraph was reached in the reading, a point of order was raised against it and conceded by the manager of the bill.

(c) Appropriations of the executive departments and independent establishments for the fiscal year 1946 shall be available for expenses of travel of new appointees and of transportation of their immediate families in accordance with regulations prescribed by the President, and expenses of transportation of household goods and personal effects in accordance with the act of October 10, 1940 (5 U.S.C. 73c-1), from the places of their actual residence at the time of appointment to places of employment outside continental United States, and for such expenses on return of civilian officers and employees from their posts of duty outside continental United States to the places of their actual residence at time of assignment to duty outside the United States.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I make a point of order against subparagraph (c) on the ground that it is legislation on an appropriation bill.

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

MR. CASE of South Dakota: I may state in this connection that the only reason I made the point of order to this paragraph and not to the previous paragraph is because subparagraph (b) is limited to transfer where permanent duty is involved. Subparagraph (c) is not so limited. . . .

THE CHAIRMAN:⁽¹⁰⁾ The point of order made against subparagraph (c) on page 65 is sustained.

§ 20.6 Language in an appropriation bill making funds available for reimbursements of employees and others, for use by them of their privately owned automobiles on official business, was conceded to be unauthorized and was held not in order on an appropriation bill.

On Feb. 8, 1945,⁽¹¹⁾ during consideration in the Committee of the Whole of the independent offices appropriation bill (H.R. 1984), a point of order was raised against the following provision:

The Clerk read as follows:

(d) Appropriations of the executive departments and independent establishments for the fiscal year 1946 shall be available for reimbursement, at not to exceed 3 cents per mile (unless otherwise permitted by law), of employees or others rendering service to the Government for use by them of privately owned automobiles for transportation on official business within the limits of their official stations or places of service.

MR. [RICHARD B.] WIGGLESWORTH [of Massachusetts]: Mr. Chairman, I make a point of order against the paragraph on the ground that it is legislation on an appropriation bill.

MR. [CLIFTON A.] WOODRUM [of Virginia]: Mr. Chairman, I concede the

point of order. It is legislation, but, Mr. Chairman, it was placed in the bill for the purpose of uniformity. This provision is carried in practically every appropriation bill.

THE CHAIRMAN:⁽¹²⁾ The point of order . . . is sustained.

§ 20.7 Language in an appropriation bill providing for the payment of actual transportation expenses not to exceed \$10 per diem in lieu of subsistence for the Council of Personnel Administration was held not to be authorized by existing law.

On Jan. 17, 1940,⁽¹³⁾ the Committee of the Whole was considering H.R. 7922, an independent offices appropriation bill. At one point the Clerk read as follows, and proceedings ensued as indicated below:

Salaries and expenses: For every expenditure requisite for and incident to the work of the Council of Personnel Administration, created by section 7 of Executive Order No. 7916, dated June 24, 1938, including personal services in the District of Columbia; traveling expenses, including, when specifically directed by the chairman, not exceeding \$800 for expenses of attendance at meetings concerned with the furtherance of the work of the council; printing and binding; books of reference and

10. William M. Whittington (Miss.).

11. 91 CONG. REC. 964, 79th Cong. 1st Sess.

12. William M. Whittington (Miss.).

13. 86 CONG. REC. 439, 76th Cong. 3d Sess.

periodicals; and the payment of actual transportation expenses and not to exceed \$10 per diem in lieu of subsistence and other expenses of persons serving while away from their homes, without other compensation from the United States, in an advisory capacity to the council, \$25,040.

MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. Chairman, I make the point of order against the section beginning on line 20, page 15, and ending on line 9, page 16, that it is not authorized by law.

MR. [CLIFTON A.] WOODRUM of Virginia: Mr. Chairman, undoubtedly there is language in this section which changes existing law, particularly the language on page 16 beginning . . . after the word "periodicals" and reading as follows:

and the payment of actual transportation expenses and not to exceed \$10 per diem in lieu of subsistence.

This language unquestionably changes existing law and would make the paragraph subject to a point of order. I concede the point of order, Mr. Chairman.

THE CHAIRMAN:⁽¹⁴⁾ The gentleman from Illinois makes a point of order against the paragraph, and the gentleman from Virginia concedes the point of order. The point of order is therefore sustained.

Government Corporation Reserve Fund

§ 20.8 A provision of a general appropriation bill requiring a certain amount of the sum

14. Lindsay C. Warren (N.C.).

authorized therein for administrative expenses of a government corporation to be placed in reserve and used only when and in the amounts required for designated operations of the corporation in excess of budget estimates therefor was ruled out when no authorization was cited in support of the appropriation.

On May 1, 1952,⁽¹⁵⁾ during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 7314) the following point of order was raised:

MR. [ABRAHAM J.] MULTER [of New York]: Mr. Chairman, may I make my point of order now?

THE CHAIRMAN:⁽¹⁶⁾ The gentleman will state it.

MR. MULTER: I make the point of order against title II and specifically against that portion beginning at line 18 on page 45, on the ground that it is legislation in an appropriation bill. . . . The language placing \$2,500,000 in a reserve fund is legislation and not an appropriation. As a matter of fact, I think the point of order could be raised against the entire title, because it is an authorization to make expenditures, as appears at line 3 on page 45. However, I desire to direct the point of order at this moment to the provision beginning in line 18.

15. 98 CONG. REC. 4741, 82d Cong. 2d Sess.

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

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

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, the appropriation for the Commodity Credit Corporation is not in actuality an appropriation, but it is a limitation on how much of their funds they can use for administrative expenses. In the absence of such limitation they could spend all their money for their operations.

The committee has fixed a limitation at \$16,500,000 as the limit of their funds which they can spend; otherwise they could spend all of their funds.

MR. MULTER: The difficulty with the argument made against the point of order is that this authorization now makes the reservation and then provides that this sum of \$2,500,000 shall be expended for sums in excess of the budget estimates. I am now referring to line 24, same page. In other words, they take the money out and reserve it, then provide it shall be spent for purposes in excess of budget estimates. That is the real vice of this provision.

THE CHAIRMAN: Can the gentleman from Mississippi cite specific law authorizing the committee to set aside these funds in reserve?

MR. WHITTEN: I do not know of any law that authorizes the committee to do so; no. I had not anticipated this would arise. This leaves, if the point of order is sustained, \$16,500,000 to carry on the administrative work instead of \$14,500,000 as now provided.

THE CHAIRMAN: In the absence of any citation on the part of the gen-

tleman, the Chair is constrained to sustain the point of order.

NASA—Scientific Consultations

§ 20.9 Where legislation authorizing the National Aeronautics and Space Administration to use appropriated funds for scientific consultations had not become law, language in an appropriation bill to permit use of “not to exceed \$10,000 of appropriations in this act . . . for scientific consultations” was ruled out on a point of order as not yet authorized.

On Apr. 19, 1960,⁽¹⁷⁾ the Committee of the Whole was considering H.R. 11776, a bill making appropriations for sundry independent executive bureaus. When the Clerk read the following paragraph, a point of order was raised as indicated:

Not to exceed \$10,000 of appropriations in this Act for the National Aeronautics and Space Administration shall be available for scientific consultations and any emergency or extraordinary expense pursuant to section 1(f) of the legislative authorization for appropriations for the fiscal year 1961.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, a point of order.

17. 106 CONG. REC. 8232, 86th Cong. 2d Sess.

THE CHAIRMAN:⁽¹⁸⁾ The gentleman will state it.

MR. GROSS: The language on page 27, beginning with line 14 through line 19, I contend is legislation providing for an appropriation not authorized by law.

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

MR. [ALBERT] THOMAS [of Texas]: Mr. Chairman, we will have to admit the point of order as good, the entire legislation has not been cleared by both bodies or signed by the President, so if the gentleman wants to make a point of order against any section of it, to be perfectly frank about it, it is good.

THE CHAIRMAN: The gentleman from Texas concedes the point of order and the Chair sustains the point of order.

National Resources Planning Council

§ 20.10 An amendment making an appropriation for the National Resources Planning Council was held not authorized by law.

On Feb. 17, 1943,⁽¹⁹⁾ the Committee of the Whole was considering H.R. 1362, an independent offices appropriation bill. At one point the Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. Magnuson: On page 63, line 14, insert a new title:

18. Frank N. Ikard (Tex.).

19. 89 CONG. REC. 1072, 78th Cong. 1st Sess.

"NATIONAL RESOURCES PLANNING COUNCIL

"For all salaries, expenses, including postwar planning research, there shall be appropriated for the National Resources Planning Council the sum of \$415,000."

MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. Chairman, I make the point of order on the paragraph on the ground that it is not authorized by law. . . .

THE CHAIRMAN:⁽²⁰⁾ The Chair is ready to rule. . . . No law has been pointed out to the Chair, and the Chair is aware of no statute that would authorize the appropriation. The Chair, therefore, sustains the point of order.

Post Office—Substitute Mail Carriers

§ 20.11 An appropriation for payment to substitute mail carriers for work on all holidays except Sundays was not authorized by law.

On Feb. 9, 1943,⁽¹⁾ the Committee of the Whole was considering H.R. 1648, a Treasury and Post Office Departments appropriation. During consideration of the bill, a point of order against an amendment was sustained as indicated below:

Rural Delivery Service: For pay of rural carriers, auxiliary carriers, sub-

20. William M. Whittington (Miss.).

1. 89 CONG. REC. 742, 743, 78th Cong. 1st Sess.

stitutes for rural carriers on annual and sick leave, clerks in charge of rural stations, and tolls and ferriage, Rural Delivery Service, and for the incidental expenses thereof, \$92,200,000 of which not less than \$200,000 shall be available for extensions and new service.

MR. [BUTLER B.] HARE [of South Carolina]: Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. Hare: Page 39, line 20, strike out "\$92,200,000" and insert "\$94,000,000", and at the end of line 21, strike out the period, insert a comma, and add "including delivery service by substitute carriers on all holidays except Sundays."

MR. [EMMETT] O'NEAL [of Kentucky]: Mr. Chairman, I rise to make a point of order against the amendment. The second provision of the amendment is not authorized by law. . . .

THE CHAIRMAN:⁽²⁾ Is there any law at the present time authorizing the payment to substitute carriers on Sunday? Is there any law presently that authorizes that payment?

MR. HARE: No, except city carriers and clerks, a general authorization under the law. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The amendment offered by the gentleman from South Carolina reads as follows:

Strike out "\$92,200,000" and insert "\$94,000,000", and at the end of line 21 strike out the period, insert a comma, and add "including delivery

service by substitute carriers on all holidays except Sundays."

The Chair knows of no authorization for the payment of such services. The gentleman from South Carolina very frankly concedes that he knows of no such authorization. The burden of proof being upon the gentleman from South Carolina, who offered the amendment, the Chair is of the opinion that the point of order is well taken and sustains the point of order.

President's Emergency Fund

§ 20.12 Language in a general appropriation bill appropriating \$5 million for the Emergency Fund for the President was held unauthorized by law.

On Jan. 24, 1946,⁽³⁾ The Committee of the Whole was considering H.R. 5201, an independent offices appropriation. A point of order was raised against the paragraph which follows:

EMERGENCY FUND FOR THE PRESIDENT

Emergency fund for the President: Not to exceed \$5,000,000 of the appropriation "Emergency fund for the President," contained in the First Supplemental National Defense Appropriation Act, 1943, as supplemented and amended, is hereby continued available until June 30, 1947.

MR. [HENRY C.] DWORSHAK [of Idaho]: Mr. Chairman, I make a point

3. 92 CONG. REC. 355, 79th Cong. 2d Sess.

2. Wirt Courtney (Tenn.).

of order against the paragraph just read on the ground there is no legislative authority for the appropriation proposed.

THE CHAIRMAN:⁽⁴⁾ Does the gentleman from Florida desire to be heard on the point of order made by the gentleman from Idaho?

MR. [JOE] HENDRICKS [of Florida]: Mr. Chairman, I will leave that to the discretion of the Chair.

THE CHAIRMAN: The gentleman from Idaho [Mr. Dworshak] makes a point of order against the paragraph on the ground that the appropriation is not authorized by law. The Chair has stated to the gentleman in charge of the bill, the gentleman from Florida [Mr. Hendricks], that he would be glad to hear him. In the absence of any statement to the contrary, the Chair is bound by the statement of the gentleman from Idaho and, therefore, sustains the point of order.

President's Wife—Salary

§ 20.13 An amendment to a general appropriation bill providing for a salary of \$10,000 per year for the wife of the President for maintaining the White House was held not authorized by law.

On Jan. 24, 1946,⁽⁵⁾ during consideration in the Committee of the Whole of the independent offices appropriation bill (H.R. 5201), a

4. William M. Whittington (Miss.).

5. 92 CONG. REC. 352, 79th Cong. 2d Sess.

point of order was made against the following amendment:

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, I offer an amendment, which is at the desk.

The Clerk read as follows:

Amendment offered by Mr. Fulton: On page 2, line 15, after the semicolon, insert "to the wife of the President a salary of \$10,000 per year as services for maintaining the White House establishment, not to be expended as the President may determine"; and in line 21 strike out "\$883,660" and insert "\$893,660."

MR. [JOE] HENDRICKS [of Florida]: Mr. Chairman, while I may concede there is some merit to the proposal of the gentleman from Pennsylvania, I make the point of order against the amendment that it is an appropriation not authorized by law.

THE CHAIRMAN:⁽⁶⁾ The gentleman from Pennsylvania [Mr. Fulton] offers an amendment in the following language:

On page 2, line 15, after the semicolon, insert "to the wife of the President a salary of \$10,000 per year as services for maintaining the White House establishment, not to be expended as the President may determine"; and in line 21 strike out "\$883,660" and insert "\$893,660."

The gentleman from Florida makes the point of order that it is an appropriation not authorized by law. Clearly it is an appropriation not authorized by law.

The Chair sustains the point of order.

6. William M. Whittington (Miss.).

Public Health Service—Mineral Disease Treatment

§ 20.14 An amendment to an appropriation bill seeking to appropriate funds to the Public Health Service, Division of Venereal Diseases, for the purpose of continuing the operation of the Hot Springs Transient Medical Center Infirmary at Hot Springs, Arkansas, was held not to be authorized by law.

On Jan. 17, 1938,⁽⁷⁾ the Committee of the Whole was considering H.R. 8947, a U.S. Treasury and Post Office Departments appropriation bill. At one point a point of order was raised after the Clerk read an amendment.

Amendment offered by Mr. McClellan: On page 39, after line 11, insert a new title and paragraph, as follows:

“Public Health Service, Division of Venereal Diseases: For the purpose of continuing the operation and maintenance of the Hot Springs Transient Medical Center Infirmary, located at Hot Springs National Park, Ark., \$180,000.” . . .

MR. [LOUIS] LUDLOW [of Indiana]: Mr. Chairman, I make the point of order against the amendment that it is not authorized by existing law, and in doing so I would like to compliment the gentleman on the splendid fight he has made for his local community and

7. 83 CONG. REC. 649, 650, 75th Cong. 3d Sess.

for his very able presentation of his case, but this would be an irregular proceeding. . . .

THE CHAIRMAN:⁽⁸⁾ The Chair would like to ask the gentleman from Arkansas if there has been an authorization heretofore passed with reference to this project?

MR. [JOHN L.] MCCLELLAN [of Arkansas]: Nothing but a relief appropriation, but a bill is now pending for that purpose.

THE CHAIRMAN: The Chair is ready to rule.

The Chair sustains the point of order because it is legislation on an appropriation bill, there having been no authorization act heretofore passed.

Student Aid

§ 20.15 An appropriation to assist students, in such numbers as the Chairman of the War Manpower Commission would determine, who were participating in accelerated college programs in engineering, physics, and other subjects was not authorized by law.

On June 5, 1942,⁽⁹⁾ the Committee of the Whole was considering H.R. 7181, a Labor Department and Federal Security Agency appropriation. At one point the Clerk read the following amendment:

Amendment offered by Mr. Keefe: Page 25, after paragraph (2), insert a

8. Arthur H. Greenwood (Ind.).

9. 88 CONG. REC. 4959, 77th Cong. 2d Sess.

new paragraph, as follows: "To assist students (in such numbers as the chairman of the War Manpower Commission shall determine) participating in accelerated programs in degree-granting colleges and universities in engineering, physics, chemistry, medicine (including veterinary), dentistry, and pharmacy and such other technical and professional fields as said chairman may determine to be necessary in connection with the national war effort, by providing part-time employment, \$5,000,000."

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not authorized by law. . . .

THE CHAIRMAN:⁽¹⁰⁾ The Chair is ready to rule.

In the bill under consideration, which provides an appropriation for the N.Y.A., there is no authority in law setting up the N.Y.A.; and, therefore, in order that this appropriation for that agency might not be thrown out on a point of order it was necessary to have a special rule waiving points of order against that particular appropriation. That rule waived points of order on that clause in the bill.

The gentleman's amendment undertakes to make another appropriation which is to be administered under the Chairman of the Manpower Commission. It is the opinion of the Chair that there is no authority in law for the appropriation proposed in the amendment and the Chair is therefore constrained to sustain the point of order.

Surgeon General—Entertainment Expenses

§ 20.16 Language in a general appropriation bill providing

10. Howard W. Smith (Va.).

funds "not to exceed \$1,000 for entertainment of officials . . . when authorized by the "Surgeon General" was held to be unauthorized and to constitute legislative authority.

On Mar. 29, 1960,⁽¹¹⁾ during consideration in the Committee of the Whole of the Departments of Labor and Health, Education, and Welfare appropriation bill (H.R. 11390), a point of order was raised against the following provision:

The Clerk read as follows:

ASSISTANCE TO STATES, GENERAL

To carry out the purposes, not otherwise specifically provided for, of section 314(c) of the Act; to provide consultative services to States pursuant to section 311 of the Act; to make field investigations and demonstrations pursuant to section 301 of the Act; to provide for collecting and compiling mortality, morbidity, and vital statistics; not to exceed \$1,000 for entertainment of officials of other countries when specifically authorized by the Surgeon General; and to provide traineeships pursuant to section 306 of the Act; \$22,620,000.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I make a point of order against the language to be found on

11. 106 CONG. REC. 6863, 86th Cong. 2d Sess. See also 106 CONG. REC. 6864, 6865, 86th Cong. 2d Sess., Mar. 29, 1960.

page 23 of the bill, line 1, reading as follows: "not to exceed \$1,000 for entertainment of officials of other countries when specifically authorized by the Surgeon General."

I make the point of order that this is legislation on an appropriation bill.

THE CHAIRMAN:⁽¹²⁾ Does the gentleman from Rhode Island [Mr. John E. Fogarty] desire to be heard on the point of order?

MR. FOGARTY: Mr. Chairman, as I read this language, it is just a limitation in this appropriation bill that they shall not exceed \$1,000 for this purpose. . . .

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

It would appear to the Chair that this is language intended to permit of the making available of the sum of \$1,000 for entertainment of officials of other countries. It is not in essence or in words a limitation on any appropriation made here. In the absence of the citation of any substantive authority for this, the Chair is compelled to sustain the point of order.

Higher Education Programs

§ 20.17 Funds claimed by the report of the Committee on Appropriations to be available, inter alia, to expand educational grants to middle income students but not specifically so earmarked in the paragraph, were held to be generally authorized by the Higher Education Act, al-

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

though separate legislation modifying those grant programs had not yet been enacted into law, since the paragraph in question referred only to programs authorized by law and since authorizations under all sections of law proposed to be modified by that separate legislation had been extended by law for the fiscal year in question.

On June 8, 1978,⁽¹³⁾ during consideration in the Committee of the Whole of the Departments of Labor and Health, Education, and Welfare appropriation bill (H.R. 12929), the following proceedings occurred as indicated above:

The Clerk read as follows:

STUDENT ASSISTANCE

For carrying out subparts 1 (\$3,373,100,000), 2 (\$340,100,000), and 3 (\$86,750,000) of part A, and parts C (\$520,000,000) and E (\$328,900,000) of Title IV of the Higher Education Act, and, to the extent not otherwise provided, the General Education Provisions Act, \$4,675,750,000, of which \$4,651,350,000 shall remain available until September 30, 1980: *Provided*, That amounts appropriated for basic opportunity grants shall be available first to meet any insufficiencies in entitlements resulting from the payment schedule for basic opportunity grants published

13. 124 CONG. REC. 16778, 95th Cong. 2d Sess.

by the Commissioner of Education during the prior fiscal year: *Provided further*, That pursuant to section 411(b)(4)(A) of the Higher Education Act, amounts appropriated herein for basic opportunity grants which exceed the amounts required to meet the payment schedule published for any fiscal year by 15 per centum or less shall be carried forward and merged with amounts appropriated the next fiscal year.

MR. [R. LAWRENCE] COUGHLIN [of Pennsylvania]: Mr. Chairman, I have a point of order. . . .

. . . [D]uring the discussion of the rule on this bill, I asked if there was money in this portion of the bill for the so-called Middle Income Student Assistance Act. The distinguished chairman of the subcommittee informed me that there indeed was money in the bill for that act.

I indicated at that time that the Middle Income Student Assistance Act was not authorized. In fact, the House specifically refused to consider that act and has subsequently passed the Tuition Tax Credit Act. I was informed that was not necessary because this could be done under current law.

Mr. Chairman, the Middle Income Student Assistance Act is not current law. If the Middle Income Student Assistance Act is current law, why did the President propose it as a new program?

Mr. Chairman, the committee report says that this appropriation is based on the House version of the Middle Income Student Assistance Act and will expand student aid for middle income students. It will not expand aid for middle income students without increasing the middle income student limitation, and there is no authorization for that.

Mr. Chairman, I would like to know whether the Middle Income Student Assistance Act is or is not in existence and whether it is or is not necessary, and I make the point of order that the \$1.4 billion in this section that is for expanded aid to middle income students is not authorized. . . .

MR. [DAVID R.] OBEY [of Wisconsin]: . . . Mr. Chairman, let me just point out that the Middle Income Student Assistance Act, which has not yet passed, simply gives direction and makes certain changes in an already existing program. The bill before us today funds programs which are in existing law, and the gentleman's point of order is, therefore, not well taken.

THE CHAIRMAN:⁽¹⁴⁾ The Chair is ready to rule.

The gentleman stated quite accurately that the report of the committee on this appropriation bill indicated that the Middle Income Student Assistance Act H.R. 11274 had not become law. It also says, and I quote, on page 74:

Even though this legislation is still pending, appropriations can be made under existing authority to expand student aid for middle income students, as expressed in the bill and accompanying report.

The Chair has had an opportunity to examine the report on H.R. 11274 and the basic law. This is Public Law 94-482, 94th Congress, the Education Amendment of 1976.

Section 121, Part D, Student Assistance Basic Educational Opportunity Grants, extends the authorizations of the basic act to September 30, 1979.

Considering all of the authorizations for fiscal 1979 under part D—Student

14. Richard Bolling (Mo.).

Assistance—together, it would appear that the funds in the paragraph in question are authorized.

Therefore, the Chair believes that the Committee is correct in its view that there is extant authorization justifying this appropriation, and he overrules the point of order.

Parliamentarian's Note: H.R. 11274, the Middle Income Student Assistance Act, had been reported from the Committee on Education and Labor but had not passed the House. The report on that bill indicated that all of the five existing programs of student financial assistance which that bill would modify had been extended through fiscal 1979 by Public Law No. 94-482. The purpose of H.R. 11274 was merely to redirect emphasis toward assistance for middle income students, but not to provide new authorization.

Public Service Jobs—Earmarking

§ 20.18 Where existing law authorized appropriations for employment of persons by public employers to provide public services, an amendment appropriating funds for railroad maintenance employment “pursuant to contracts with railroads” was held unauthorized where its sponsor failed to cite specific authority for the program.

On Mar. 12, 1975,⁽¹⁵⁾ during consideration in the Committee of the Whole of H.R. 4481 [the Emergency Employment Appropriation Act of 1975], a point of order was sustained against an amendment, as follows:

The Clerk read as follows:

Amendment offered by Mr. [Samuel L.] Devine [of Ohio]: Page 7, line 6, strike out the period and insert in lieu thereof the following: “; of which amount \$250,000,000 shall be available only for use by State and local prime sponsors to provide emergency jobs for unemployed workers to perform needed railroad maintenance of way services pursuant to contracts with railroads located within the geographical jurisdiction of such sponsors.”

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I make a point of order against the amendment on the ground that there is no authorization for this action and it violates clause 2 of rule XXI. . . .

MR. DEVINE: . . . I recognized when this amendment would be offered it might be construed as legislation on an appropriation measure, but I have gone back to the act and I have looked at the act. The purpose of the act we passed in 1946, the Employment Act, was consistent with those needs and obligations and other essential considerations of national policy for the purpose of creating and maintaining, in a manner calculated to foster and promote free competitive enterprise and the general welfare, conditions under

15. 121 CONG. REC. 6338, 6339, 94th Cong. 1st Sess.

which there will be afforded useful employment opportunities—and I repeat, useful employment opportunities. That is the purpose of the act.

What we are doing in this amendment is providing useful employment opportunities—not leaf raking and not make work jobs, but useful employment opportunities.

The whole purpose of the bill is to provide funds for public service jobs. That is exactly the purpose of the amendment, except it earmarks that. In my opinion, Mr. Chairman, this does not violate the rules and I think the point of order should be overruled.

. . .

THE CHAIRMAN:⁽¹⁶⁾ The Chair is prepared to rule.

The amendment specifies that this quarter billion dollars shall be available for use only by State and local prime sponsors to provide emergency jobs for unemployed workers to perform railroad maintenance. The Chair has examined Public Law 93-567, and there is no specific authorization for such purpose. The Chair finds that the proposed amendment further changes the allocation formula contained in Public Law 93-567, which is described on pages 34 and 35 of the report, and further interferes with the discretion given the Secretary under section 603(b) of the public law as to the utilization of the final 10 percent of the authorized amounts. In chapter 26, section 6 of "Deschler's Procedure," it provides very clearly that there is ample precedent that such reallocations in appropriation bills are legislation, and the point of order is sustained.

16. Jack Brooks (Tex.).

Officials' Representation Expenses

§ 20.19 A section of a general appropriation bill authorizing the Secretaries of Labor and Health, Education, and Welfare to use funds in the bill for official reception and representation expenses was conceded to be unauthorized and was ruled out in violation of Rule XXI clause 2.

On June 27, 1974,⁽¹⁷⁾ during consideration in the Committee of the Whole of H.R. 15580 (Departments of Labor and Health, Education, and Welfare appropriations), a point of order was sustained against the following provision:

The Clerk read as follows:

Sec. 404. The Secretary of Labor and the Secretary of Health, Education, and Welfare are each authorized to make available not to exceed \$7,500 from funds available for salaries and expenses under titles I and II, respectively, for official reception and representation expenses.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I make a point of order against the language to be found on page 37, beginning with line 21 and running through line 25 as being appropriation not authorized by law. . . .

MR. [DANIEL J.] FLOOD [of Pennsylvania]: It is the entire section 404?

17. 120 CONG. REC. 21686, 21687, 93d Cong. 2d Sess.

Mr. Chairman, we concede the point of order.

THE CHAIRMAN:⁽¹⁸⁾ The point of order is conceded and sustained.

§ 21. Increasing Amount Beyond Authorization

Generally

§ 21.1 An amendment proposing to appropriate a sum in addition to that authorized by law for a specific purpose is not in order on an appropriation bill.

On Mar. 12, 1942,⁽¹⁹⁾ The Committee of the Whole was considering H.R. 6709, an Agriculture Department appropriation bill. During consideration, a point of order against an amendment was sustained as indicated below:

MR. [H. JERRY] VOORHIS of California: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Voorhis of California: Page 79, line 11, after the period, add the following paragraph:

"To enable the Secretary of Agriculture to further carry out the provisions of section 32, as amended, of the act entitled 'An act to amend the Agricultural Adjustment Act, and for other purposes,' approved August 24,

1935, and subject to all provisions of law relating to the expenditure of funds appropriated by such section, \$40,000,000. Such sum shall be immediately available and shall be in addition to, and not in substitution for, other appropriations made by such section or for the purpose of such section."

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from California on the ground that there is no authority of law for making an appropriation in addition to the permanent appropriation made by section 32 of the Agricultural Adjustment Act. There is no legislative basis for the amendment which the gentleman offers.

THE CHAIRMAN:⁽²⁰⁾ Does the gentleman from California wish to be heard on the point of order?

MR. VOORHIS of California: No, Mr. Chairman; I concede the point of order.

THE CHAIRMAN: The point of order is sustained.

Increase in Lump Sum Beyond Authorization

§ 21.2 An amendment proposing an increase in the amount of an appropriation authorized by law was held to be unauthorized: to the appropriation for compensation of Members of the House, an amendment proposing to increase the total amount beyond that authorized was held to be in violation of Rule XXI clause 2.

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

19. 88 CONG. REC. 2346, 77th Cong. 2d Sess.

20. Robert Ramspeck (Ga.).