September 1, 1937 (50 Stat. 900), $820,000 . . . *Provided,* That under this appropriation not exceeding an average of $4 per head shall be paid for reindeer purchased from nonnative owners: *Provided further,* That the foregoing limitation shall not apply to the purchase of reindeer located on Nunivak Island.

MR. [JOHN C.] SCHAFER of Wisconsin: Mr. Chairman, I make the point of order against the paragraph on the ground that it is legislation on an appropriation bill unauthorized by law. In fact, the language clearly indicates that it repeals the specific provisions of existing law as incorporated in sections 3709 and 3744 of the Revised Statutes.

THE CHAIRMAN:[18] Does the gentleman from Oklahoma desire to be heard?

MR. [JED] JOHNSON of Oklahoma: No; I concede the point of order.

THE CHAIRMAN: The point of order is sustained.

§ 25. Construction or Definition of Terms of Bill or Law

Descriptive Term

§ 25.1 An amendment proposing to insert the words "known as 'Rankin Dam'" following an appropriation for Pickwick Landing Dam was held to be legislation and not in order on an appropriation bill.

On May 8, 1936,[19] during consideration in the Committee of the Whole of a deficiency appropriation bill (H.R 12624), a point of order was raised against the following amendment:

MR. [AARON L.] Ford of Mississippi: Mr. Chairman, I offer another amendment.

The Clerk read as follows:

Page 19, line 2, after the words "Pickwick Landing Dam", insert the following: "(known as 'Rankin Dam')."

MR. [JOHN J.] MCSWAIN [of South Carolina]: Mr. Chairman, I make a point of order on the amendment that it is legislation on an appropriation bill. It is evidently an attempt to change the name and call it "Rankin Dam." It is in the teeth of legislation that has been attempted time and time again. There are bills before the Committee on Military Affairs to change the name of this dam to "Rankin Dam."

MR. [HAROLD] KNUTSON [of Minnesota]: I should like to ask the gentleman if it is not customary to wait until the man is dead before they name a dam for him?

MR. MCSWAIN: Yes; it is

THE CHAIRMAN:[20] Does the gentleman from Mississippi wish to be heard on the point of order?

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, if the Chair will permit.

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18. Frank H. Buck (Calif.).

19. 80 CONG. REC. 6965–67, 74th Cong. 2d Sess.

20. John W. McCormack (Mass.).

THE CHAIRMAN: The Chair recognizes the gentleman from Missouri.

MR. CANNON of Missouri: Mr. Chairman, this amendment is not legislation. It is language merely descriptive, and such amendments have been repeatedly held not to be legislation.

I recall two decisions on this point. They were made by one of the greatest parliamentarians who has served in the House, James R. Mann, of Illinois.

The first was made in 1905 when an amendment was offered, I think, to the Naval bill.

The language provided that ships or armament should be of "native manufacture." . . . Mr. James R. Mann, of Illinois, held that those words were merely descriptive and that it was not legislation.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Chairman, will the gentleman yield?

MR. CANNON of Missouri: I yield with pleasure to the distinguished leader on the other side of the House.

MR. SNELL: If the words are merely descriptive, why will they have the effect of changing the name of the dam?

MR. CANNON of Missouri: They do not change the name of the dam. It is not proposed to change the name of the dam.

MR. SNELL: But is not that the intention? I call it legislation. Is not that the intention of the amendment?

MR. CANNON of Missouri: The gentleman from New York, being one of the ablest parliamentarians in the House, knows that the Chairman of the Committee of the Whole may not speculate as to the intention of an amendment. He must predicate his decision on the amendment before him in the language in which it is written. He cannot go back of what is on the face of it to surmise what is the purpose of a Member in offering an amendment. This amendment merely further describes the Pickwick Landing Dam; it does not propose a change in the name; it merely adds the descriptive language "known as the Rankin Dam.". . .

THE CHAIRMAN: The Chair is prepared to rule. The Chair entirely agrees with the gentleman from Missouri [Mr. Cannon], with reference to the use of descriptive words. Therefore, the question in the mind of the present occupant of the chair is whether the amendment is descriptive or whether it constitutes legislation. Without regard to whether or not it brings about a change in the name of the dam from "Pickwick Landing Dam" to "Rankin Dam", it is the opinion of the Chair, with profound respect for the opinion of the gentleman from Missouri, one of the outstanding parliamentarians of all time, that the amendment does not constitute descriptive language; that it constitutes legislation. It is an addition to the language used in this bill. The Chair would rule the same whether or not the legislation referred to by the gentleman from South Carolina [Mr. McSwain] contained the words "Pickwick Landing Dam" or not, because that name is included in the bill now before the House.

Profoundly respecting the views of the gentleman from Missouri, and with considerable hesitation in disagreeing with him, it is the opinion of the Chair that the point of order is well taken, and the Chair therefore sustains the point of order.

Appropriation Carrying Waiver of Limitations Contained Elsewhere in Same Bill

§ 25.2 Where specific appropriations in an appropriation bill were expressly subjected to certain limitations, it was held that subsequent language in the bill might appropriate for other objects "without regard to the amounts of the limitations" so imposed.

On May 17, 1937,[1] the Committee of the Whole was considering H.R. 6958, an Interior Department appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

> Boulder Canyon project: For the continuation of construction of the Boulder Canyon Dam and incidental works in the main stream of the Colorado River at Black Canyon, to create a storage reservoir, and of a complete plant and incidental structures suitable for the fullest economic development of electrical energy from the water discharged from such reservoir $2,550,000, to be immediately available and there shall also be available from power and other revenues not to exceed $500,000 for operation and maintenance of the Boulder Canyon Dam, power plant, and other facilities; which amounts of $2,550,000 and $500,000 shall be available for personal services in the District of Columbia . . . and for all other objects of expenditure that are specified for projects hereinbefore included in this act, under the caption "Bureau of Reclamation, Administrative provisions and limitations", without regard to the amounts of the limitations therein set forth.
>
> MR. [RICHARD B.] WIGGLESWORTH [of Massachusetts]: Mr. Chairman, I reserve a point of order for the purpose of asking the chairman of the subcommittee the effect of the language in lines 19 and 20 of the paragraph under consideration, "without regard to the amounts of the limitations therein set forth." . . .
>
> MR. [JAMES G.] SCRUGHAM [of Nevada]: Mr. Chairman, the paragraph applies to limitations on appropriations, and I hold it to be clearly in order.
>
> THE CHAIRMAN:[2] The Chair is prepared to rule.
>
> The gentleman from Massachusetts makes the point of order against the language appearing in lines 19 and 20.
>
> There is no point made here that the provisions referred to are not covered by authorization of law. It is apparent from examining this provision, and referring back to the provisions contained on page 68, that the purpose here is to remove certain limitations imposed by the language on page 68 under the heading "Administrative provisions and limitations." Therefore the Chair is of the opinion that this language is not subject to a point of order and overrules the point of order.

1. 81 CONG. REC. 4685, 4686, 75th Cong. 1st Sess. See 83 Cong. Rec. 2707, 75th Cong. 3d Sess., Mar. 2, 1938, for a similar ruling.

2. Jere Cooper (Tenn.).

Army Publications; Exception From Valid Limitation

§ 25.3 A provision in a general appropriation bill providing that no part of the appropriation for pay of the Army shall be available for pay of any officer or enlisted man who is engaged with any publication issued by or for any branch of the Army in which such officers or enlisted men have membership and which carries paid advertising of firms doing business with the War Department and also providing that 'nothing herein . . . shall be construed to prohibit officers from writing . . . articles in accordance with regulations issued by the Secretary of War" was held in order as a valid exception from a limitation (excepting certain activity undertaken in accordance with regulations issued pursuant to existing law).

On Mar. 28, 1938,[3] the Committee of the Whole was considering H.R. 9995, a military appropriation bill. During consideration of the bill, a point of order was overruled as indicated below:

No appropriation for the pay of the Army shall be available for the pay of any officer or enlisted man on the active list of the Army who is engaged in any manner with any publication which is or may be issued by or for any branch or organization of the Army or military association in which officers or enlisted men have membership and which carries paid advertising of firms doing business with the War Department: *Provided, however,* That nothing herein contained shall be construed to prohibit officers from writing or disseminating articles in accordance with regulations issued by the Secretary of War.

Mr. [CHARLES I.] FADDIS [of Pennsylvania]: Mr. Chairman, I make a point of order against the language contained in lines 12 to 22, inclusive, on page 13, that it is legislation on an appropriation bill.

THE CHAIRMAN:[4] Does the gentleman from Pennsylvania desire to be heard on the point of order?

MR. FADDIS: I do not believe that is necessary, Mr. Chairman. This does not decrease any appropriation and does not provide for a decrease in personnel or anything of that kind, and is purely legislation on an appropriation bill.

THE CHAIRMAN: Does the gentleman from Pennsylvania (Mr. Snyder) desire to be heard on the point of order?

MR. [JOHN B.] SNYDER of Pennsylvania: Mr. Chairman, I believe this is just a straight-out limitation, and I do not believe it comes within the provision referred to.

THE CHAIRMAN: What about the last proviso in the last three or four lines of the paragraph:

3. 83 CONG. REC. 4243, 4244, 75th Cong. 3d Sess.

4. Luther A. Johnson (Tex.).

That nothing herein contained shall be construed to prohibit officers from writing or disseminating articles in accordance with regulations issued by the Secretary of War?

MR. SNYDER of Pennsylvania: I may say to the Chair that that does not give any more authority than now exists. It just accepts the authority now existing.

THE CHAIRMAN: Then, under existing law, why is it necessary to have that provision?

MR. [JOHN] TABER [of New York]: Mr. Chairman, it would seem to me that that proviso is clearly a part of the limitation above, because it simply excepts an officer publishing something already permitted by regulations of the Secretary of War. The language is clearly a limitation on an appropriation bill. There is no attempt at legislation, no additional duties required of any officer, or anything of that kind. . . .

THE CHAIRMAN: The Chair is of opinion that the explanation made by the gentleman from New York (Mr. Taber) is correct; that the last proviso is simply an exception from the limitation, and the Chair, therefore, overrules the point of order and holds that the paragraph is a proper limitation.

Defining Expenses as Non-administrative

§ 25.4 Where an appropriation bill placed a limit on administrative expenses, a provision defining certain expenses as "nonadministrative," for purposes of making the computation under the limitation was held to be legislative and was ruled out on a point of order.

On Jan. 17, 1940,[5] during consideration in the Committee of the Whole of the independent offices appropriation bill (H.R. 7922), a point of order was raised against the following provision:

The Clerk read as follows:

Electric Home and Farm Authority, salaries and administrative expenses: Not to exceed $600,000 of the funds of the Electric Home and Farm Authority, established as an agency of the Government by Executive Order No. 7139 of August 12, 1935, and continued as such agency until June 30, 1941 by the act of March 4, 1939 (Public Act No. 2, 76th Cong.), shall be available during the fiscal year 1941 for administrative expenses of the Authority, including personal services in the District of Columbia and elsewhere; travel expenses, in accordance with the Standardized Government Travel Regulations and the act of June 3, 1926, as amended (5 U.S.C. 821-833); not exceeding $3,000 for expenses incurred in packing, crating, and transporting household effects (not exceeding 5,000 pounds in any one case) of personnel when transferred in the interest of the service from one official station to another for permanent duty when specifically authorized in the order directing the transfer; printing and binding; lawbooks and books of reference; not to exceed $200 for periodicals, newspapers, and maps; procurement of supplies, equipment, and services; typewriters, adding machines, and other labor-saving devices, including

5. 86 CONG. REC. 439, 76th Cong. 3d Sess.

their repair and exchange; rent in the District of Columbia and elsewhere; and all other administrative expenses: *Provided,* 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, care, repair, and disposition of any security or collateral now or hereafter held or acquired by the Authority shall be considered as non-administrative expenses for the purposes hereof.

MR. [FRANCIS H.] Case of South Dakota: Mr. Chairman, I make the point of order against the paragraph that it contains legislation in the proviso beginning on page 21, line 3, and reading as follows:

Provided, 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, care, repair, and disposition of any security or collateral now or hereafter held or acquired by the Authority shall be considered as nonadministrative expenses for the purposes hereof.

I make the point of order merely against the proviso, Mr. Chairman, not against the paragraph.

THE CHAIRMAN:[6] Does the gentleman from Virginia desire to be heard on the point of order?

MR. [CLIFTON A.] WOODRUM of Virginia: I do not, Mr. Chairman.

THE CHAIRMAN: As the language pointed out by the gentleman from South Dakota [Mr. Case] attempts to construe existing law, the Chair believes the point of order is well taken. The point of order is, therefore, sustained, and the proviso is stricken out.

6. Lindsay C. Warren (N.C.).

Exceptions to Limitations

§ 25.5 In making an appropriation it is in order to except from the operation of a limitation thereon propositions authorized by law by language not changing the application of that law.

On Apr. 17, 1943,[7] the Committee of the Whole was considering H.R. 2481, an Agriculture Department appropriation bill. The Clerk read as follows:

Amendment offered by Mr. [Edward H.] Rees of Kansas: On page 63, line 2, after the colon, insert as follows: "*Provided further,* That no payment or payments hereunder to any one person or corporation shall be in excess of the total sum of $500: *And provided further,* That this limitation shall not be construed to deprive any share renter of payments not exceeding the amount to which he would otherwise be entitled.". . .

MR. [CLIFFORD R.] HOPE [of Kansas]: Mr. Chairman, I offer an amendment to the amendment

The Clerk read as follows:

Amendment offered by Mr. Hope to the amendment offered by Mr. Rees of Kansas: Add the following:

"*And provided further,* That in applying this limitation there shall be excluded amounts representing landlord's share of a payment made with respect to land operated under a tenancy or sharecropper relationship if the division of the payment between

7. 89 CONG. REC. 3526, 3527, 78th Cong. 1st Sess.

the landlord and tenant or sharecropper is determined by the local committee to be in accord with fair and customary standards of rent and sharecropping prevailing in the locality. In the case of payments to any person on account of performance on farms in different States, Territories, or possessions, the limitation shall be applied to the total of the payments for each State, Territory, or possession for a year and not to the total of all payments.". . .

MR. [MALCOLM C.] TARVER [of Georgia]: As I understood the reading of the amendment, the amendment clearly contains legislation. It changes the terms of existing law with reference to the method of computation of payments of the kind provided for in the paragraph. It does not on its face indicate any saving of funds carried in this paragraph of the bill so as to come within the provisions of the Holman rule. It places upon administrative authorities additional duties to perform to those duties which are now required by law, and it seems to me that it is for these reasons clearly legislative in character. . . .

MR. HOPE: I submit, Mr. Chairman, that the amendment is purely a limitation. It is a modification of the limitations contained in the amendment offered by the gentleman from Kansas [Mr. Rees]. It provides simply that under certain circumstances the Rees amendment shall not be operative. It is not legislation, it is simply a modification of the Rees amendment.

THE CHAIRMAN:[8] The Chair will ask the gentleman from Kansas and also the gentleman from Georgia whether or not it is true that under the Soil Conservation and Allotment Act or under regulations provided by the law there is a method for ascertaining the relationship between the shares accruing to landlords and tenants and the amounts that are to be paid to landlords and tenants? In other words, the question is whether or not any additional provision or legislation to those now existing by law or by rules and regulations are embraced in the gentleman's limitation?

MR. HOPE: There is a provision in the Triple A Act—I cannot quote it word for word—which does relate to the relationship between landlord and tenant and provides that the relationship shall not be changed where it once exists.

THE CHAIRMAN: Does the gentleman from Georgia desire to make any response to the inquiry?

MR. TARVER: I have no further statement to make, Mr. Chairman.

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

A point of order is made to the amendment on the ground that it is legislation on an appropriation bill. It is replied that under the Soil Conservation Act and under the rules authorized by that act, as stated by the gentleman from Kansas [Mr. Hope] and in response to the Chair's inquiry, that the rules and regulations provide now for determination by local committees substantially as provided in this limitation. The Chair understands that in the Soil Conservation and Domestic Allotment Act there is a limitation with respect to the total payments in the several States or territories. In view of the statements made by the gentleman from Kansas [Mr. Hope]

8. William M. Whittington (Miss.).

that are not controverted by any statute or regulation brought to the attention of the Chair, and in view of the construction placed upon the act and the rules and regulations under the act, the Chair is constrained to hold that the pending amendment is a further limitation upon the limitation pending as proposed by the gentleman from Kansas [Mr. Rees].

As the Chair interprets the amendment of the gentleman from Kansas [Mr. Hope] it does not change the terms of existing law with respect to the method of ascertaining payments or the duties of local committees. It does not place upon the administrative authorities any additional duties to perform. No duties will be performed except those now required by law. The local committees under rules and regulations now pass upon the standards of rent and sharecropping. Under the rules and regulations as authorized by the Soil Conservation Allotment Act these committees would pass upon the leasing and sharecropping under the Rees amendment. The said committees would do no more and no less under the Hope amendment. Under existing law and under the Rees amendment the landlord's share would be determined and the tenant's share would be determined by the local committees. Under existing law and under the Hope amendment the local committees would perform the same functions that they would perform under the Rees amendment. No additional legislation is contained in the amendment. No additional duties are prescribed. The Rees amendment and the Hope amendment neither contemplate any additional duties nor any additional obligations. They require the performance of no additional duties. The Rees amendment is a limitation and the Hope amendment is a further limitation, and as such is a limitation of the same kind as the Rees amendment, with no additional functions to be performed by the local committee.

The Chair overrules the point of order.

Education; Language Defining the Scope of Busing Limitation

§ 25.6 To provisions prohibiting the use of funds in the bill for purposes, in part, of promoting busing in school districts, amendments limiting the application of such provisions to school districts which are not formed on the basis of race or color were held in order as not imposing additional duties on the federal official administering the funds.

On Feb. 19, 1970,[9] the Committee of the Whole was consid-

9. 116 CONG. REC. 4029, 91st Cong. 2d Sess. The provisions which the proposed amendments sought to modify stated:

"Sec. 408. No part of the funds contained in this Act may be used to force any school district to take any actions involving the busing of students, the abolishment of any school or the assignment of any student attending any elementary or secondary school to a particular school against

ering H.R. 15931, a Departments of Labor and Health, Education, and Welfare appropriation bill. The following proceedings took place:

Amendments offered by Mr. [James G.] O'Hara [of Michigan]: On page 60, line 20 after the words "school district" insert "in which students are assigned to particular schools on the basis of geographic attendance areas drawn without consideration of the race or color of prospective students and in which personnel are assigned without regard to race or color" and on line 23 after the words "particular school" insert the words "other than his neighborhood school.". . .

MR. GERALD R. FORD [of Michigan]: Mr. Chairman, I reserve a point of order against the amendments as legislation on an appropriation bill. . . .

But to refer to the point of order, as I read the language proposed in the amendment, it seems crystal clear to me that the language imposes on the executive branch additional burdens and consequently is contrary to the rules of the House as far as legislation on an appropriation bill is concerned. . . .

MR. O'HARA: . . . Mr. Chairman, the limitation is in sections 408 and 409. It is a bona fide limitation. All my amendment seeks to do is to prescribe with particularity the school districts to which the limitation in sections 408 and 409 will apply. . . .

THE CHAIRMAN:[10] The Chair is prepared to rule.

The Chair has had occasion to study both of the amendments and the language contained therein. It is clear to the Chair that the language relates to the limitations which are already a part of sections 408 and 409. It defines the limitations further by adding an additional definition to the limitations and in the opinion of the Chair is negative insofar as additional action is concerned on the ground that it really is a description of the school district as it exists at the present time. Therefore, the Chair is constrained to overrule the point of order.

Definition of "Person" in Agriculture Appropriation Bill

§ 25.7 To an agricultural appropriation bill, an amendment curtailing the use of funds therein for price support payments to any person in excess of $30,000 per year and providing that "for the purpose of this [amendment] the term 'person' shall mean an individual, partnership, firm, joint stock company," or the like, was ruled out as legislation.

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the choice of his or her parents or parent.

"Sec. 409. No part of the funds contained in this Act shall be used to force any school district to take any actions involving the busing of students, the abolishment of any school or the assignment of students to a particular school as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school."

10. Chet Holifield (Calif.).

On May 26, 1965,[11] during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 8370), a point of order was raised against the following amendment:

MR. [ROBERT H.] MICHEL [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Michel: On page 33, line 24, after the word "hereof", strike the period, insert a colon and the following: "*Provided further:* (a) That none of the funds herein appropriated may be used to formulate or carry out price support programs during the period ending June 30, 1966, under which a total amount of price support payments in excess of $30,000 would be made to any person . . . (b) That for the purposes of this proviso the term 'person' shall mean an individual, partnership, firm, joint stock company, corporation, association, trust, estate or other legal entity, or a State, political subdivision of a State, or any agency thereof.". . .

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I should like to read, if I may, the first part of the amendment, as I make the point of order against it:

Provided, That none of the funds herein appropriated may be used to formulate or carry out price support programs during the period ending June 30, 1966, under which a total amount of price support payments in excess of $30,000 would be made to any person.

I respectfully submit that this not only would require some new duties but also would require the opening up of individual accounts. This makes it quite clearly subject to a point of order.

I might point out that subsection (b), where the definitions are given, would require a determination and also would call for special duties.

THE CHAIRMAN:[12] Does the Chair correctly understand that the gentleman from Mississippi has stated his point of order against the pending amendment?

MR. WHITTEN: Yes.

MR. MICHEL: Mr. Chairman, I should like to be heard on the point of order. I submit, Mr. Chairman, it falls strictly within the Holman rule on retrenching, as a limitation. The Department of Agriculture has all kinds of statisticians. We appropriate money for them. They have the wherewithal to make any kind of determination we see fit to legislate. In this sense, it is a retrenchment, in my opinion.

THE CHAIRMAN: . . . The Chair has read the amendment offered by the gentleman from Illinois. The Chair is of the opinion that even though any limitation imposed upon an executive agency may add to the burdens of that executive agency, a limitation of an appropriation is in good order. The Chair, therefore, would say to the gentleman from Illinois that in the opinion of this occupant of the chair, he has offered an amendment which is in form a limitation. But in addition thereto, he has added language which defines a person, and in the opinion of the Chair that language is legislation on an appropriation bill and is therefore out of order.

The Chair sustains the point of order.

11. 111 CONG. REC. 11655, 11656, 89th Cong. 1st Sess.

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

Parliamentarian's Note: For a provision held in order as a limitation, see the ruling on Mar. 4, 1954, discussed in § 74.3, infra. In that instance the Chair ruled that, where an amendment to an appropriation bill provided that no part of any appropriation in the bill be used for compensation of any officer or employee of a designated bureau who for the purposes of the Hatch Act, "shall not be included within the construction of the term 'officer' or 'employee'," the language was in order as a limitation. The determinations of employment status were, it should be noted, already required by law.

Public Buildings Administration—Teletype Service

§ 25.8 Language broadening beyond existing law the definition of services to be funded by an appropriation was held to be legislation.

On Dec. 6, 1944,[13] during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 5587), a point of order was raised against the following provision:

> The Clerk read as follows:
>
> PUBLIC BUILDINGS ADMINISTRATION
>
> The words "other services" appearing in the proviso clause under the head "Salaries and expenses, public buildings and grounds in the District of Columbia and adjacent area," fiscal year 1945, shall be deemed to include teletype service and telephone switchboards or equivalent telephone-switching equipment serving one or more governmental activities in buildings operated by the Public Buildings Administration where it is found that such service is economical and in the interest of the Government.

MR. [FRANCIS H.] CASE [of South Dakota]: Mr. Chairman, I make a point of order against the words "Teletype service and" in the paragraph just read, on the ground that they constitute legislation and would make funds available for projects not authorized by law.

I may say in this connection, Mr. Chairman, that I think there is no objection to the installation of teletype services in certain agencies of the Government, but as provided in this paragraph and in the paragraph immediately following there would be established a broad authorization to install teletype services wherever they could be put in any building administered by the Public Buildings Administration. It seems to me entirely too broad. This question has been discussed before the Independent Offices Committee and the belief there was that teletype installations should be permitted only in specific instances where a definite need is shown.

THE CHAIRMAN:[14] The Chair will hear the gentleman from Missouri [Mr. Cannon] on the point of order.

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, there is no ground upon which the point of order

13. 90 CONG. REC. 8940, 78th Cong. 2d Sess.

14. Herbert C. Bonner (N.C.).

against this provision can be sustained. This is a regularly established and recognized means of communication which any department is authorized to use in furtherance of the administration of its duties. There is no law under which it is denied, no provision of law under which it can be excluded. It is merely one of the regularly included provisions for carrying out the law and I see no grounds at all on which the point of order can be sustained.

MR. CASE: Mr. Chairman, I call the Chair's attention to the following colloquy in the hearings on this item, page 125:

> THE CHAIRMAN: Why should it be necessary to make this modification?
>
> MR. CAMERON: That is a change in language for the P.B.A. in order to facilitate the handling of the reimbursable services transferred from O.E.M. Their communication and leasing services were transferred to the Public Buildings Administration as of October 1, 1944.
>
> THE CHAIRMAN: You could not handle it under the present limitations?
>
> MR. CAMERON: That is right

On the record of the hearings, then, this bill at the point cited is a change of law. It changes existing legislation by providing that the words "'Other services' shall be deemed to include teletype services." On the record of the hearings themselves, as brought out by the chairman, an existing limitation is proposed to be changed. Consequently, it does change existing law.

MR. CANNON of Missouri: That, of course, is true. Of course, you have to put it in the bill; but there is no law against including it in the bill, the committee having reported it. It does not change existing law.

THE CHAIRMAN: On the basis of the statement made by the gentleman from Missouri, the Chair must sustain the point of order.

Grant of Authority Based on Determination of National Defense Needs

§ 25.9 To an appropriation bill, an amendment construing language therein to grant authority to withdraw or withhold funds for specific military construction projects upon a determination that elimination of such projects would not adversely affect national defense, was held to be legislation and therefore not in order.

On July 12, 1956,[15] during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R 12138), a point of order was raised against the following amendment:

> Amendment offered by Mr. (John) Taber (of New York): On page 10, line 7, strike out the period, insert a semicolon "*Provided further,* That nothing herein shall be so construed as to prohibit withholding or withdrawing funds for specific projects or installations when such projects or installations can be eliminated or deferred without adverse effect on the national interest."

15. 102 Cong. Rec. 12551, 12552, 84th Cong. 2d Sess.

MR. (HARRY R.) SHEPPARD (of California): Mr. Chairman, I reserve a point of order on the amendment.

MR. TABER: Mr. Chairman, I have offered this amendment to follow the language and the word "installation" on line 7. I have offered it because, although it is not as good as what I had in mind myself, it would permit the armed services to stop the use of funds upon projects that had gone sour or had been dropped because they were not needed any longer.

The way the language in section 309 reads they would not have the power to do that. No one else would have the power to do it, and it would be a menace to our whole military situation.

I am in hopes that the gentleman on the other side of the aisle will agree to accept this amendment. It is in the nature of a compromise. Frankly, it can be drawn so that it will not in the slightest degree be subject to a point of order, but I thought perhaps those who misconstrue the language that they have brought in here might be willing to accept this. I do not think it would be safe for us to pass this kind of a provision. For that reason. I have offered this amendment and I hope it will be adopted.

MR. SHEPPARD: Mr. Chairman, due to the fact that as far as I know the only complaint comes from Assistant Secretary McNeil and not from either of the three services, I insist upon my point of order.

MR. TABER: Mr. Chairman, I do not think this is subject to a point of order. It does not call for additional duties. It is simply a limitation upon a restriction that is set up in the language. It is clearly germane to the language.

THE CHAIRMAN:[16] Does the gentleman from California desire to be heard on the point of order?

MR. SHEPPARD: I merely wish to call the Chair's attention to the fact that it imposes additional duties and that it also is legislation on an appropriation bill.

THE CHAIRMAN: The gentleman from New York has offered an amendment to which the gentleman from California has interposed the point of order that the amendment imposes additional duties and is legislation on an appropriation bill.

The Chair is prepared to rule

In the opinion of the Chair the amendment proposed by the gentleman from New York does impose an additional burden upon the person administering the funds, and, therefore, constitutes legislation on an appropriation bill.

The point of order is sustained.

Construing Language in Exception to Limitation

§ 25.10 Where a limitation in an amendment to an appropriation bill prohibited certain payments to persons in "excess of . . . $500," a further provision stating that such limitation would not be "construed to deprive any share renter of payments" to which he might be otherwise entitled was held to be in order as an exception to a limitation.

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16. Paul J. Kilday (Tex.).

On Mar. 24, 1944,[17] during consideration of the Agriculture Department appropriation bill for 1945 (H.R. 4443), the following proceedings occurred:

MR. [EDWARD H.] REES of Kansas: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Rees of Kansas: On page 62, line 5, after the colon following the word "inclusive", 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 $500: And provided further, That this limitation shall not be construed to deprive any share renter of payments not exceeding the amounts to which he would otherwise be entitled."

MR. [MALCOLM C.] TARVER (of Georgia): Mr. Chairman, I make a point of order against the amendment because of the inclusion of the second proviso therein, which, in my judgment, constitutes legislation upon an appropriation bill. It is in effect a construction of the preceding proviso, and which legislatively provides that the preceding proviso in the case of tenants shall not be taken at its face value but that a different rule shall be applicable to them. Because that provision is included, I think the entire amendment is subject to a point of order because of its being legislative in character. . . .

[I]t is my opinion, having heard the amendment read, although I have not had the opportunity to examine it carefully, that the second proviso does not constitute merely an exception to the limitation made in the first proviso, but it is legislative in character and constitutes a legislative construction of the language contained in the first proviso and is, therefore, clearly in itself legislation. I know no reason why the gentleman from Kansas should not offer or be permitted to offer the first proviso. But I think the second proviso which reads, "*And provided further,* That this limitation shall not be construed to deprive any share renter of payments not exceeding the amount to which he would otherwise be entitled," is clearly a legislative construction of the preceding proviso and, therefore, in itself constitutes legislation.

THE CHAIRMAN:[18] Does the gentleman from Kansas desire to be heard further?

MR. REES of Kansas: Just one point. Let me observe that the so-called limitation is a limitation only on the first proviso of the amendment and does not constitute legislation on the bill.

THE CHAIRMAN: The Chair is ready to rule. The Chair is of the opinion that the second proviso constitutes an exception to the provisions of the amendment as contained in the first proviso. The Chair overrules the point of order.

Mr. Rees subsequently made the following remarks concerning the amendment:

MR. REES of Kansas: Mr. Chairman, this amendment is identical with one I submitted and was adopted by the House last year. It went to another

17. 90 CONG. REC. 3095, 78th Cong. 2d Sess. For discussion of exceptions from limitations generally, see § 66, infra.

18. William M. Whittington (Miss.).

body and was eliminated by the members of the conference committee. The amendment simply limits the payment under this program to any one person, firm, or corporation to a maximum of $500. Share renters also participate up to $500.

Mr. Chairman, there is a considerable misunderstanding with regard to what is known as the soil-conservation program in the Department of Agriculture. The Soil Conservation Service has its own organization and has been in effect for many years. We appropriate approximately $30,000,000 per year for it. That agency employs hundreds of soil experts, and other trained men to render assistance with respect to soil conditions, crops, conservation, crop rotation, and any and all kinds of advice and information is furnished free to the farmers. This agency, although not so much publicized, has done a great amount of real constructive work.

This section of the legislation deals with payments that are allowed by the Government for following certain land programs and practices laid out by the Agricultural Adjustment Agency. These payments are, as the legislation suggests, in compliance with the Agricultural Adjustment Act of 1936 as amended in 1938. Now, Mr. Chairman, all I am asking is that since this money is paid by taxpayers, from the Federal Treasury, that payments be limited to $500.

Parliamentarian's Note: Although the above ruling indicates that it is in order to except from the operation of a specific limitation on expenditures, certain of those expenditures which are authorized by law, by prohibiting a construction of the limitation in a way which would prevent compliance with that law, this principle should be applied in the light of a further ruling, on Aug. 27, 1980.[19] In the 1980 ruling, it was held that an amendment to a general appropriation bill which does not limit or restrict the use or expenditure of funds carried in the bill, but which provides directions on the way in which the bill must be interpreted or construed, is legislation.

Defining Terms in Limitation; Reference to President's Budget

§ 25.11 An amendment in the form of a limitation on funds in the bill but measured against a provision in the President's budget request, and also containing definitions of the terms of the limitation, was held to be legislative in effect

On July 26, 1951,[20] during consideration in the Committee of the Whole of a general appropriation bill (H.R. 4740), a point of order

19. 126 CONG. REC. 23535, 96th Cong. 2d Sess.

20. 97 CONG. REC. 8981, 8982, 82d Cong. 1st Sess.

was raised against the following amendment:

Amendment offered by Mr. [Lawrence H.] Smith of Wisconsin: Page 58, line 14, insert a colon at the end of the sentence and add the following: "*Provided further*, That any funds provided by this act shall not be available for the compensation of persons performing information functions or related supporting functions in excess of 75 percent (on an annual basis) of the amount budgeted therefor in the President's budget for 1952. For the purposes of this section the term 'information function' means functions usually performed by a person designated as an information specialist, information and editorial specialist, publications and information coordinator, press relations officer or counsel, or publicity expert, or designated by any similar title; and the term 'related supporting functions' means functions performed by persons who assist persons performing information functions in the drafting, preparing, editing, typing, duplicating, or disseminating of public information, publications or releases, radio or television scripts, magazine articles, and similar materials."

MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Wisconsin (Mr. Smith) on the ground it is legislation on an appropriation bill, legislation defining terms and functions; therefore, contrary to the rules of the House. . . .

MR. SMITH of Wisconsin: Mr. Chairman, it is my view that this amendment is in order and that it is germane to the bill now under consideration. It provides merely for a limitation on this appropriation bill of 25 percent in the amount that can be used. . . .

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

While the gentleman may intend the amendment as a limitation, it certainly contains language that goes further than a mere limitation on an appropriation bill. The provision in the amendment seeking to provide a definition, and other language contained in the amendment, is beyond the scope of a limitation on an appropriation bill. Therefore the Chair sustains the point of order.

Defining Terms in Price Support Program Limitation

§ 25.12 To a general appropriation bill, an amendment limiting the use of funds for payments to farmers, but at the same time providing definitions, new authorizations, and imposing additional duties on the Secretary of Agriculture, was ruled out as legislation

On June 6, 1961,[2] during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 7444), a point of order was raised against the following amendment:

MR. [WILLIAM H.] AVERY [of Kansas]: Mr. Chairman, I offer an amendment

1. Jere Cooper (Tenn.).
2. 107 CONG. REC. 9626, 9627, 87th Cong. 1st Sess.

The Clerk read as follows:

Amendment offered by Mr. Avery: On page 33, line 22, strike out the period, and add ": *Provided further,* (1) That no part of this authorization shall be used to formulate or carry out a price support program for 1962 under which a total amount of price support in excess of $50,000 would be extended through loans, purchases, or purchase agreements made or made available by Commodity Credit Corporation to any person on the 1962 production of all agricultural commodities, (2) That the term "person" shall mean an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity, or a State, political subdivision of a State, or any agency thereof, (3) That in the case of any loan to, or purchase from, a cooperative marketing organization, such limitation shall not apply to the amount of price support received by the cooperative marketing organization, but the amount of price support made available to any person through such cooperative marketing organization shall be included in determining the amount of price support received by such person for purposes of such limitation, and (4) That the Secretary of Agriculture shall issue regulations prescribing such rules as he determines necessary to prevent the evasion of such limitation". . . .

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I make the point of order that the amendment is legislation on an appropriation bill. It provides for new duties on the part of the Secretary of Agriculture, in addition to other legislative provisions.

THE CHAIRMAN:[3] Does the gentleman from Kansas desire to be heard on the point of order?

MR. AVERY: Yes, Mr. Chairman.

As I recall it, about 2 years ago right now, in 1959, I think the distinguished gentleman from Texas was in the chair that day; if not the gentleman from Texas presently in the chair, it was one of his Texas colleagues. When I submitted the original amendment to this same section of the appropriation bill, the gentleman from Mississippi raised a point of order against the amendment. After a considerable amount of deliberation, shall I say, the Chairman upheld the amendment as being a further limitation on the administrative costs of the Commodity Credit Corporation. Therefore, the point of order was not sustained.

THE CHAIRMAN: The Chair is prepared to rule

The gentleman from Kansas offers an amendment which has been reported. The Chair would observe it was probably this Chairman who occupied the chair on the occasion the gentleman from Kansas referred to. It was apparently on the 18th of May 1959.

The Chair did not understand the gentleman from Kansas to state that the amendment now pending is in identical language as that which was offered in 1959. . . .

The Chair has the language which was before the Chair in 1959, and will read it:

Amendment offered by Mr. Avery: Page 27, line 19, strike out the period, add a colon and insert: "Further, no funds appropriated in this section shall be used to process Commodity Credit loans which are in excess of $50,000."

The Chair points out that that language was directly, solely and exclusively directed at the purpose for

3. Paul J. Kilday (Tex.).

which funds being appropriated at that time could be used.

The Chair has examined the pending amendment, and while the first sentence of the pending amendment would indicate that it is in the nature of a limitation, it does refer to authorizations. This is the crux of the ruling of the Chair.

The Chair points out that the language of the amendment contains definitions, authorizations, and imposes duties upon an officer of the executive department. It is therefore clearly legislation on an appropriation bill. It is not identical or, in the opinion of the Chair, similar to the amendment offered in 1959.

The Chair is constrained to sustain the point of order.

Limitation Containing Statement of Purpose

§ 25.13 A paragraph in a general appropriation bill limiting the use of funds therein to pay certain employees above a certain rate of pay, but also containing a proviso "to assure" that the limitation did not reduce compensation in certain circumstances, was ruled out as legislation since containing a legislative statement of purpose.

On Aug. 8, 1978,[4] the Committee of the Whole had under consideration the Defense Department appropriation bill (H.R. 13635), when a point of order was sustained against a provision in the bill as indicated below:

The Clerk read as follows:

Sec. 860. None of the funds appropriated by this Act shall be available for the pay of a prevailing rate employee, as defined in paragraph (A) of section 5342(a)(2) of title 5, United States Code, at a rate that is greater than 104 percent of the rate of pay payable to an employee in the second step of the grade of the regular, supervisory, or special wage schedule, in which the prevailing rate employee is serving: *Provided*, That to assure that this limitation does not (1) reduce the rate of pay of a prevailing rate employee, continuously employed after September 30, 1978, as set forth hereafter, below the rate of pay for that employee in effect on September 30, 1978, or (2) prevent such employee from receiving the first 5.5 percent increase in rate of pay as the result of any adjustments in pay pursuant to section 5343 of title 5, United States Code, that become effective on or after October 1, 1978, the pay of a prevailing rate employee who was employed before October 1, 1978, shall not be reduced by this limitation (1) below that to which the employee was entitled based on his or her rate of pay on September 30, 1978. . . .

MR. [RICHARD C.] WHITE [of Texas]: Mr. Chairman, I raise a point of order to section 860, that the provisions of this section constitute legislation in an appropriation bill in violation of rule XXI, clause 2 of the rules and regulations of the House of Representatives.

In support, I cite Deschler's Procedures, page 367, section 1.2, in which it states:

4. 124 CONG. REC. 24969, 24970, 95th Cong. 2d Sess.

Language in an appropriation bill changing existing law is legislation and not in order.

And Cannon's Precedents, section 704, which states that the language controlling executive discretion is legislation and is not in order on an appropriation bill.

I believe that section 860 enacted into law can be construed as requiring lower payment of salaries than may be required by law, specifically Public Law 93–952, and thus it changes existing law. . . .

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, the object of the provision is to limit expenditures and retrench programs and expenditures, it is a limitation on an appropriation bill, which is designed to save tremendous sums of money over the long run.

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

The first part of the section seems to be a proper limitation, however the proviso placed on line 3, page 57, certainly is a legislative statement of purpose and not merely an exception from the limitation.

The Chair sustains the point of order against the entire section.

Definition of Term in Abortion Limitation; Requiring Finding of Intent

§ 25.14 An amendment to a general appropriation bill prohibiting the use of funds therein for abortions or abortion-related material and services, and defining "abortion" as the intentional destruction of unborn human life, which life begins at the moment of fertilization was conceded to impose affirmative duties on officials administering the funds (requiring determinations of intent of recipients during abortion process) and was ruled out as legislation in violation of Rule XXI clause 2.

On June 27, 1974,[6] during consideration of the Departments of Labor and Health, Education, and Welfare appropriation bill (H.R. 15580), a point of order was sustained against the following amendment:

The Clerk read as follows:

Amendment offered by Mr. [Angelo D.] Roncallo of New York: Amend H.R. 15580 by adding a new section 412 on page 39 of the bill as follows:

Sec. 412. No part of the funds appropriated under this Act shall be used in any manner directly or indirectly to pay for abortions or abortion referral services, abortifacient drugs or devices, the promotion or encouragement of abortion, or the support of research designed to develop methods of abortion, or to force any State, school or school district or any other recipient of Federal funds to provide abortions or health or disability insurance abortion benefits. As used in this section, abortion

5. Daniel D. Rostenkowski (Ill.).

6. 120 CONG. REC. 21687, 93d Cong. 2d Sess.

means the intentional destruction of unborn human life, which life begins at the moment of fertilization. . . .

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Chairman, I make a point of order against the amendment on the ground that this is legislation in an appropriation bill and it requires the imposition of new duties upon members of the executive branch, upon other officers of the Federal Government in order to determine when life begins. When does fertilization occur?

As part of this amendment, the Chair will note that abortion means the intentional destruction of unborn human life, which life begins at the moment of fertilization. That imposes duties upon somebody to determine as of what point, as of what moment in time that occurs.

For these reasons, Mr. Chairman, and also it restricts the definition of the term and it imposes new duties on outside officials in determining whether the definition has been complied with. . . .

MR. RONCALLO of New York: Mr. Chairman, I am conceding the point of order and offering another amendment.

THE CHAIRMAN:[7] The gentleman concedes the point of order and the Chair sustains the point of order. The amendment is ruled out.

Directions on Interpretation of Bill

§ 25.15 An amendment to a general appropriation bill which does not limit or restrict the use or expenditure of funds carried in the bill, but which provides directions on the way in which the bill must be interpreted or construed, is legislation.

On Aug. 27, 1980,[8] an amendment to a general appropriation bill, providing that nothing in the act shall restrict the authority of the Secretary of Education to carry out the provisions of title VI of the Civil Rights Act of 1964, was ruled out as legislation. The proceedings were as follows:

The Clerk read as follows:

Amendment offered by Mr. [Leon E.] Panetta [of California]: On page 51, after section 308, insert the following new section:

"Sec. 309. Nothing in this Act shall restrict the authority of the Secretary of Education to carry out the provisions of title VI of the Civil Rights Act of 1964." . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I make the point of order that [the amendment] is legislation on an appropriation bill. . . .

MR. PANETTA: . . . I believe this is in line. As a proviso it does not in effect constitute legislation. It really would be a proviso with regard to the other amendments that were in fact adopted. I believe that it is parliamentarily acceptable.

THE CHAIRMAN:[9] The gentleman from Maryland (Mr. Bauman) makes a point of order on the amendment of-

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

8. 126 CONG. REC. 23535, 96th Cong. 2d Sess.

9. Don Fuqua (Fla.).

fered by the gentleman from California (Mr. Panetta).

In reviewing the amendment, it appears that it is not in the form as submitted a restriction or a limitation on the expenditure of funds, or an exception therefrom, but rather does provide certain directions as the way in which the bill must be interpreted and, therefore, is legislation on an appropriation bill.

The Chair sustains the point of order.

§ 26. Authorizing Statute as Permitting Certain Language in Appropriation Bill

Conferral of Discretion as Contemplated by Existing Law

§ 26.1 Appropriations for traveling expenses, including expenses of attendance at meetings considered necessary by the National Bituminous Coal Commission, in the exercise of its discretion, for the efficient discharge of its responsibilities were held authorized by a law permitting inclusion of such language in a general appropriation bill.

On Mar. 14, 1939,[10] the Committee of the Whole was considering H.R. 4852, an Interior Department appropriation. The Clerk read as follows, and proceedings ensued as indicated below:

Salaries and expenses: For all necessary expenditures of the National Bituminous Coal Commission in performing the duties imposed upon said Commission by the Bituminous Coal Act of 1937, approved April 26, 1937 (50 Stat. 72), including personal services and rent in the District of Columbia and elsewhere; traveling expenses, including expenses of attendance at meetings which, in the discretion of the Commission, are necessary for the efficient discharge of its responsibilities . . . $2,900,000. . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN:[11] The gentleman will state it.

MR. TABER: I make a point of order against the paragraph on the ground it delegates additional power and discretion to the Commission, and I call particular attention to lines 23, 24, and 25 of page 9, which also contain the words "in the discretion of the Commission."

It seems to me this makes an appropriation and leaves the amount of the appropriation which shall be spent to the discretion of the Commission or gives the Commission power to determine whether the appropriation should be made. It is the same thing as delegating authority to the Commission to make an appropriation, and is clearly legislation.

MR. [JED] JOHNSON of Oklahoma: Mr. Chairman, I desire to be heard in opposition to the point of order.

10. 84 CONG. REC. 2739, 2740, 76th Cong. 1st Sess.

11. Frank H. Buck (Calif.).