## § 39. Subject Matter: Agriculture

### *Sharecropper Participation in Conservation*

**§ 39.1 Language in an appropriation bill providing that notwithstanding any other provision of law, persons who in 1943 carry out farming operations as tenants or sharecroppers on cropland owned by the United States and who comply with the agriculture conservation program shall be entitled to receive payment for their participation in said program as other producers, was held to be legislation on an appropriation bill.**

On Apr. 16, 1943,[3] during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 2481), the following proceedings took place:

THE CHAIRMAN:[4] The gentleman has other points of order against the paragraph?

MR. [Hampton P.] FULMER [of South Carolina]: Yes.

THE CHAIRMAN: Will the gentleman indicate those?

MR. FULMER: On page 67, line 16, down to and including line 3, on page 68, which language is as follows: "*Provided further,* That notwithstanding any other provision of law, persons who in 1943 carry out farming operations as tenants or sharecroppers on cropland owned by the United States Government and who comply with the terms and conditions of the 1943 agricultural conservation program, formulated pursuant to sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, shall be entitled to apply for and receive payments, or to retain payments heretofore made, for their participation in said program to the same extent as other producers" . . . on the ground that it is legislation on an appropriation bill without any authorization in law. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from South Carolina makes the point of order against the language beginning in line 16 and running down to and including the word "producers" in line 25 that it is legislation on an appropriation bill. With the information available to the Chair, the Chair is of the opinion that it is legislation on an appropriation bill, and sustains the point of order.

### *Soil Conservation Payments*

**§ 39.2 Where existing law provides a flat $10,000 limitation on the amount any person may receive as soil conservation payments, an amendment limiting such payments to $10,000 unless the pay-**

3. 89 CONG. REC. 3492, 3494, 78th Cong. 1st Sess.
4. William M. Whittington (Miss.).

**ment is in respect to more than one farm and adding a reporting requirement was held legislation and not in order.**

On Mar. 28, 1939,[5] during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 5269), a point of order was raised against the following amendment:

The Clerk read as follows:

Amendment offered by Mr. [Francis H.] Case of South Dakota: Page 89, line 9, after the colon, insert: "*Provided further*, That no payment from these funds for any one year shall be made to any person or corporation in excess of $10,000 unless the payment is with respect to more than one farm and then only if the excess be in the total of payments to a landlord who shall furnish to the Secretary of Agriculture a certificate from the county committee in which his farms are located stating that his division of the proceeds of that farm's benefit payments with the renter or sharecropper are fair and customary in the community.

MR. [MARVIN] JONES of Texas: Mr. Chairman, I reserve a point of order against the amendment. . . .

Mr. Chairman, I would like to be heard for a moment.

On page 5, section 102, of the present act there is a flat $10,000 limitation on the amount that any person may receive. Insofar as this amendment is effective at all, it changes this provision, but it stipulates that if there is more than one farm the $10,000 shall apply only to each farm. That is a clear change in the law because he stipulates if there is more than one farm then the $10,000 flat limitation in the present law shall be of no force and effect. Certainly that is a change in the law. . . .

THE CHAIRMAN:[6] It is the opinion of the Chair that the amendment, although in the guise of a limitation, is legislative in nature and not in order on an appropriation bill. The Chair, therefore, sustains the point of order.

### *Level of Federal Taxable Income as Eligibility for Payments*

**§ 39.3 To an appropriation bill an amendment providing that a participant in the soil conservation program could not qualify "if his net individual income for Federal income-tax purposes is in excess of $10,000 in 1952" was held to be legislation and not in order.**

On May 20, 1953,[7] during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 5227), a point of order was raised against an amendment offered to the following portion of the bill:

The Clerk read as follows:

**5.** 84 CONG. REC. 3428, 3429, 76th Cong. 1st Sess.

**6.** Wright Patman (Tex.).

**7.** 99 CONG. REC. 5244, 5263, 5264, 83d Cong. 1st Sess.

. . . *Provided further*, That none of the funds herein appropriated or made available for the functions assigned to the Agricultural Adjustment Agency pursuant to the Executive Order Numbered 9069, of February 23, 1942, shall be used to pay the salaries or expenses of any regional information employees or any State information employees . . . *Provided further*, That such amount shall be available for salaries and other administrative expenses in connection with the formulation and administration of the 1954 program of soil-building practices and soil- and water-conserving practices, under the act of February 29, 1936, as amended (amounting to $195 million, including administration, and formulated on the basis of a distribution of the funds available for payments and grants among the several States in accordance with their conservation needs as determined by the Secretary, except that the proportion allocated to any State shall not be reduced more than 15 percent from the distribution for the next preceding program year, and no participant shall receive more than $2,500); but the payments or grants under such programs shall be conditioned upon the utilization of land with respect to which such payments or grants are to be made in conformity with farming practices which will encourage and provide for soil-building and soil- and water-conserving practices in the most practical and effective manner and adapted to conditions in the several States, as determined and approved by the State committees appointed pursuant to section 8 (b) of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590h (b)), for the respective States. . . .

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fulton: Page 31, line 22, strike out the figure "$2,500" and insert "$1,000 nor qualify as a participant for payments of grants of assistance under such program if his net individual income for Federal income-tax purposes is in excess of $10,000 in 1952."

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

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

THE CHAIRMAN:[8] The gentleman from Mississippi will state his point of order.

MR. WHITTEN: This amendment would require affirmative action by the Secretary of Agriculture or someone acting for him. It would require the disclosure of income of individual citizens, which information is prohibited by law from being made public. It would require affirmative and special action by someone in the Government, which would make it legislation upon an appropriation bill. . . .

THE CHAIRMAN: The Chair is prepared to rule. As has been indicated by the gentleman from Pennsylvania [Mr. Fulton], the amendment imposes a qualification upon participants in this program. Therefore, the Chair is of the opinion that the offered amendment proposes legislation on an appropriation bill and is, therefore, subject to a point of order. The Chair sustains the point of order.

## *Price Minimum on Agricultural Purchases*

### § 39.4 A provision in a general appropriation bill that "agri-

8. William M. McCulloch (Ohio).

**cultural products . . . purchased or obtained under this program shall be at not less than" a designated price was conceded and held to be legislation and not in order.**

On June 28, 1952,[9] during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 8370), the following point of order was raised:

MR. [J. VAUGHAN] GARY [of Virginia]: Mr. Chairman, I make the point of order against the language on lines 16 to 22 on page 36 that it is legislation on an appropriation bill. That language is as follows:

*Provided further,* That agricultural products or products produced from agricultural products purchased or obtained under this program shall be at not less than the average market price prevailing for such commodity or commodities within the United States or the support price for such commodity or commodities, whichever is the greater.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I was the author of that language in the bill. I confess that it is subject to a point of order.

THE CHAIRMAN:[10] Does the gentleman concede the point of order?

MR. WHITTEN: I do, Mr. Chairman.

THE CHAIRMAN: The point of order is sustained.

9. 98 CONG. REC. 8501, 82d Cong. 2d Sess.

10. Francis E. Walter (Pa.).

### *Restriction on Uses of Loans, Rural Electrification*

**§ 39.5 An amendment to the Agriculture Department appropriation bill providing that certain loans under the Rural Electrification Administration shall be exclusively for purchasing and financing the construction and operation of generating plants and facilities for furnishing electric energy to persons in rural areas who are not receiving central station service, was held to be legislation on an appropriation bill.**

On Apr. 19, 1943,[11] during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 2481), the following ruling was made by Chairman William M. Whittington, of Mississippi:

The gentleman from Oklahoma offers an amendment to the amendment offered by the gentleman from Mississippi [Mr. Rankin] in the following words:

*Provided,* That these loans shall be exclusively for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines or systems for the furnishing of electric energy to persons in rural areas who are not receiving central station service.

11. 89 CONG. REC. 3588, 78th Cong. 1st Sess.

The Chair is unable to see where there is any limitation in the language used and concludes it is legislation, therefore sustains the point of order.

### *Reconstruction Finance Corporation Loan Authority Extended*

**§ 39.6 A provision in a general appropriation bill appropriating money for the purchase of property by the Rural Electrification Administration and providing that such sum be borrowed from the Reconstruction Finance Corporation, and directing the corporation to lend such amount notwithstanding certain provisions of law, was conceded and held to be legislation and not in order.**

On Feb. 2, 1940,[12] during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 8202), a point of order was raised against the following provision:

The Clerk read as follows:

Loans: For loans in accordance with sections 3, 4, and 5, and the purchase of property in accordance with section 7 of the Rural Electrification Act of May 20, 1936, as amended (7 U.S.C. 901–914), $40,000,000, which sum shall be borrowed from the Reconstruction Finance Corporation in accordance with the provisions of section 3(a) of said act, and shall be considered as made available thereunder; and the Reconstruction Finance Corporation is hereby authorized and directed to lend such sum in addition to the amounts heretofore authorized under said section 3(a) and without regard to the limitation in respect of time contained in section 3(e) of said act.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the language beginning on page 84, line 7, with the word "which", and ending with the word "act", in line 15, that it is legislation upon an appropriation bill.

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, I concede the point of order.

THE CHAIRMAN:[13] The gentleman from Missouri concedes the point of order. The point of order is sustained.

### *Consolidation and Continuation of Authorities*

**§ 39.7 Language in the Agriculture Department appropriation bill to enable the Secretary of Agriculture, through the Farm Credit Administration and through existing agencies under its administration to administer all activities, projects, and functions heretofore carried on under the caption "Loans, grants, and rural rehabilitation" was conceded and held to be legislation on an appropriation bill.**

12. 86 CONG. REC. 1033, 76th Cong. 3d Sess.

13. William P. Cole, Jr. (Md.).

On Apr. 19, 1943,[14] during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 2481), a point of order was raised against the following provision:

The Clerk read as follows:

LOANS AND RURAL REHABILITATION

Making and servicing loans: To enable the Secretary, through the Farm Credit Administration and through existing agencies under its supervision, including the Crop and Feed Loan Division and production credit associations, to administer all activities, projects, facilities, and functions heretofore carried on under the caption, "Loans, grants, and rural rehabilitation," the continuance of which is authorized under the terms of this appropriation, and to provide assistance to needy farmers in the United States, its Territories and possessions, unable to obtain credit elsewhere, through making and servicing of loans under this and prior law, $12,000,000. . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the paragraph just read on the ground it is legislation on an appropriation bill and is not authorized by law.

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, the point of order is conceded.

THE CHAIRMAN:[15] The point of order is sustained.

### *Use of Money From Timber Sales*

**§ 39.8 An amendment to the Agriculture Department appropriation bill proposing that 10 percent of all moneys received from timber sales by each national forest during each fiscal year shall be available to be expended by the Secretary of Agriculture for recreational purposes within such national forest was held to be legislation and not in order.**

On Apr. 5, 1949,[16] during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 3997), a point of order was raised against the following amendment:

MR. [BOYD] TACKETT [of Arkansas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Tackett: On page 39, line 13, insert the following paragraph:

"Forest recreational purposes: Ten percent of all moneys received from timber sales by each national forest during each fiscal year shall be available at the end thereof to be expended by the Secretary of Agriculture for recreational purposes within such national forest."

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

**14.** 89 CONG. REC. 3592, 78th Cong. 1st Sess.

**15.** William M. Whittington (Miss.).

**16.** 95 CONG. REC. 3948, 81st Cong. 1st Sess.

have to make a point of order against the amendment, but I must do so. I make the point of order that the amendment is legislation on an appropriation bill.

I think the approach the gentleman is making is sound, but I believe it should be considered by the appropriate legislative committee. . . .

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

The Chair considers the amendment to be strictly legislation on an appropriation bill by virtue of the fact that it does not call for money to be appropriated out of the Treasury but directs that certain things be done with the receipts from the sale of timber.

For that reason the Chair sustains the point of order.

### *Bank Audits*

**§ 39.9 A proviso in the Agriculture Department appropriation bill that the federal land banks and joint stock land banks shall be examined once a year instead of at least twice as provided by law, and changing the law with reference to salaries of employees engaged in such examinations, was conceded and held to be legislation on an appropriation bill.**

On Apr. 19, 1943,[18] during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 2481), a point of order was raised against the following provision:

The Clerk read as follows:

FARM CREDIT ADMINISTRATION

SALARIES AND EXPENSES

For salaries and expenses of the Farm Credit Administration in the District of Columbia and the field . . . *Provided*, That the requirement (12 U.S.C. 952) that Federal land banks and joint stock land banks shall be examined at least twice each year is hereby modified so that such examinations need be made only once each year: *Provided further*, That the expenses and salaries of employees engaged in such examinations shall be assessed against the said corporations, banks, or institutions in accordance with the provisions of existing laws except that the amounts collected from the Federal land banks, joint stock land banks, and Federal intermediate credit banks pursuant to the act of July 17, 1916, as amended (12 U.S.C. 657) shall be covered into the Treasury and credited to a special fund. . . .

MR. [CLIFFORD R.] HOPE [of Kansas]: Mr. Chairman, I make the point of order that the language beginning with the word "proviso", line 15, page 84, continuing on down to and including the word "thereto" in line 4, page 86, is legislation not authorized by law on an appropriation bill.

MR. [MALCOLM C.] TARVER [of Georgia]: The point of order is conceded.

THE CHAIRMAN:[19] The point of order is sustained.

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**17.** Aime J. Forand (R.I.).

**18.** 89 CONG. REC. 3590, 78th Cong. 1st Sess.

**19.** William M. Whittington (Miss.).

### *Definition of Terms*

**§ 39.10 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.**

On May 26, 1965,[20] 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:[1] 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

**20.** 111 CONG. REC. 11655, 11656, 89th Cong. 1st Sess.

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

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.

### *Agricultural Conservation Committees; Capping Allotments for Soil Conservation Services*

**§ 39.11 Language in an appropriation bill providing that the county agricultural conservation committee in any county "with the approval of the State Committee" may allot not to exceed five per centum of its allocation for the agriculture conservation program to the Soil Conservation Service for services of its technicians in carrying out the program, was held to be legislation and not in order.**

On Apr. 27, 1950,[2] during consideration of H.R. 7786 [the Department of Agriculture chapter, general appropriation bill, 1951], a point of order was raised against language as described above:

MR. [FRED] MARSHALL [of Minnesota]: Mr. Chairman, I make the point of order against the following language beginning in line 17 on page 191—

> *Provided further*, That the county agricultural conservation committee in any county with the approval of the State committee may allot not to exceed 5 percent of its allocation for the agricultural conservation program to the Soil Conservation Service for services of its technicians in formulating and carrying out the agricultural conservation program and the funds so allotted shall be utilized by the Soil Conservation Service for technical and other assistance in such county—

That it is legislation on an appropriation bill. The language contained in these lines has to do with the administration of the programs in two separate agencies of the Department of Agriculture, which ought to come before a proper legislative committee to have legal determination made. . . .

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, in answer to the statement by the gentleman from Minnesota, I point out that this provision was written in the bill last year after conference with and with the approval of the members of the legislative Committee on Agriculture. It is an

2. 96 CONG. REC. 5914, 5915, 81st Cong. 2d Sess.

effort on the part of our committee to more properly utilize the various specialists of the two agricultural programs.

Under the present law, these two agricultural agencies are authorized to utilize the services of other agencies. In effect, by fixing it at 5 percent, I think we are on sound ground in insisting on the limitation. It is a limitation in the amount which can be used for a particular purpose, whereas, in the absence of the 5-percent figure, each agency could use the services of the other, and under the general law would have a right to compensate the other for services rendered. I think under the general provisions of the law that is true. The 5-percent provision is a limitation rather than legislation or an authorization. . . .

MR. [Francis H.] CASE of South Dakota: Is it the contention of the gentleman from Mississippi that, under existing law, without this limitation an allotment might be made in excess of 5 percent?

MR. WHITTEN: I do not know as to the use of the word "allotment," but under the Economy Act of 1932, section 601, any agency is entitled to use and is authorized to use the services of another agency and to pay for such services.

MR. CASE of South Dakota: Under the basic act, the Soil Conservation and Domestic Allotment Act, is it not true that these technical and other services could be provided?

MR. WHITTEN: They could be. The point that we are trying to get at here is that the Production and Marketing Administration is entitled to this type of service, and in many cases has to go out and hire and train additional specialists while the Federal Government is paying such specialists, who are doing the same kind of work.

MR. CASE of South Dakota: That is right.

MR. WHITTEN: They would be authorized to use the services of the Soil Conservation Service beyond this 5 percent. May I point out that the citation of the act is 31 United States Code, section 686. The 5-percent provision here is not compulsory. By its insertion we hope to be able to get these two agencies to use the services of the other, instead of going out in two directions. I think we are on sound ground in our objective and in our approach to reach that objective. They already have authority to use these services, but by putting this provision in we stress our intention that they make use of the services. I think it will result in economy, if they do make use of the services. I may say that the Department has just begun to make use of them, and, from the reports that I am now getting, it is doing a great deal of good.

MR. CASE of South Dakota: If I understand the gentleman correctly, this service could be carried on by the Production and Marketing Administration itself?

MR. WHITTEN: And in most cases it is, with absolute disregard of the fact that technical people are already drawing pay from the Federal Government who could do the work.

MR. CASE of South Dakota: The gentleman has cited the act and also pointed out that existing law authorizes the agency to utilize the services of another agency to carry out its authorized functions.

MR. WHITTEN: That is correct. . . .

THE CHAIRMAN:[3] The Chair is prepared to rule.

The gentleman from Minnesota [Mr. Marshall] has made a point of order against the language appearing in that section of the bill on page 191 beginning with the word "*Provided*" in line 17, and continuing through the remainder of that paragraph down to and including the word "county" in line 25, on the ground that it includes legislation on an appropriation bill in violation of the rules of the House.

The Chair has examined the language here in question and is of the opinion that it could be drawn so as to constitute a limitation, but as the language appears now in the bill it does appear to the Chair that it contains legislation. The Chair, of course, has to pass on the question as it is here presented and invites attention to the fact that among other things it includes the words "with the approval." It appears to the Chair that the language quoted does include legislation on an appropriation bill in violation of the rules of the House.

The point of order is sustained.

*Parliamentarian's Note:* A subsequent amendment to the bill that day, providing, *inter alia*, that "not to exceed 5 percent of the allocation for the agricultural conservation program for any county may be allocated to the Soil Conservation Service" for services of its technicians in carrying out the agricultural conservation program, was held to be a limitation, restricting the availability of funds and therefore in order. See § 67.13, infra.

## § 40. Commerce

### *Delegation of Authority of Secretary of Commerce*

#### § 40.1 Language in an appropriation bill authorizing the Secretary of Commerce to designate an officer of the Department to sign minor routine official papers and documents during the temporary absence of the Secretary, the Under Secretary, and the Assistant Secretary, was conceded and held to be legislation on an appropriation bill.

On Mar. 16, 1945,[4] during consideration in the Committee of the Whole of a general appropriation bill (H.R. 2603), a point of order was raised against the following provision:

The Clerk read as follows:

TITLE III—DEPARTMENT OF COMMERCE

OFFICE OF THE SECRETARY

Salaries and expenses: For all necessary expenses of the office of the Secretary of Commerce (hereafter in

3. Jere Cooper (Tenn.).

4. 91 CONG. REC. 2367, 2368, 79th Cong. 1st Sess.