

to contain legislation not authorized.

On Dec. 7, 1944,⁽¹⁷⁾ 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:

Consumer income study: For all expenses of the Bureau of the Census necessary to collect, compile, and analyze statistics with respect to the consumer income, and to publish the results thereof, including the employment by the Director, at rates to be fixed by him, of personnel at the seat of government . . . \$3,500,000, to remain available until June 30, 1946.

MR. H. CARL ANDERSEN [of Minnesota]: Mr. Chairman, I make the point of order against the paragraph that it is legislation on an appropriation bill and not authorized by law.

THE CHAIRMAN:⁽¹⁸⁾ Does the gentleman from Pennsylvania wish to be heard on the point of order?

MR. [J. BUELL] SNYDER [of Pennsylvania]: I concede the point of order, Mr. Chairman.

THE CHAIRMAN: The Chair sustains the point of order.

§ 41. Defense and Foreign Relations

Military Activities in Cambodia and Laos

§ 41.1 To an amendment prohibiting the use of funds in a

17. 90 CONG. REC. 8995, 78th Cong. 2d Sess.

18. Herbert C. Bonner (N.C.).

general appropriation bill as well as funds already appropriated by other acts to support United States combat activities in Cambodia or Laos, an amendment making it illegal to participate in or order any such military activities was held to constitute additional legislation and was ruled out on a point of order.

On June 29, 1973,⁽¹⁹⁾ during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 9055), a point of order was raised against the following amendment:

MR. [JOHN J.] FLYNT [Jr., of Georgia]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Flynt: Page 57, line 21, strike out all of section 307 and insert a new section 307, as follows:

Sec. 307. None of the funds herein appropriated under this Act or heretofore appropriated under any other act may be expended to support directly or indirectly combat activities in, over or from off the shores of Cambodia or in or over Laos by the U.S. forces. . . .

MR. [CHARLES E.] BENNETT [of Florida]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Bennett to the amendment offered by

19. 119 CONG. REC. 22352, 22362, 93d Cong. 1st Sess.

Mr. Flynt: At the end of the Flynt Amendment strike the period and insert a semicolon and the words "and from the date of the enactment of this law it shall be illegal for anyone to participate in, or order, any such activities." . . .

MR. [ELFORD A.] CEDERBERG [of Michigan]: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN:⁽²⁰⁾ The gentleman will state his point of order.

MR. CEDERBERG: Legislation on an appropriation bill is subject to a point of order. . . .

THE CHAIRMAN: The Chair is ready to rule.

The Chair feels that the amendment offered by the gentleman from Georgia (Mr. Flynt) was protected by the rule. An amendment to that amendment which would add language making an act illegal would be in effect legislation on an appropriation bill, in violation of clause 2, rule XXI, and the point of order is sustained.

Defense Department General Counsel

§ 41.2 To an appropriation bill, an amendment proposing that no part of the appropriation therein be paid to any commissioned officer or any civilian employee in the office of the Judge Advocate, unless such officer or employee is subject to the authority of a general counsel appointed by the President,

20. Jack B. Brooks (Tex.).

who shall be the chief legal officer, was conceded and held to be legislation and therefore not in order.

On May 12, 1955,⁽¹⁾ during consideration in the Committee of the Whole of the Defense Department appropriation bill (H.R. 6042), a point of order was raised against the following amendment:

Amendment offered by Mr. [Frank] Thompson [Jr.] of New Jersey: Page 30, immediately after line 20, insert:

"Sec. 602. No part of any appropriation contained in this act shall be used to pay the pay and allowances of any commissioned officer, or the wages of any civilian employee, who is assigned to or employed in—

"(1) the office of the Judge Advocate General of the Navy, unless such officer or employee is subject to the authority of a general counsel of the Navy. . . ."

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, it is obvious that this is legislation on an appropriation bill and subject to a point of order and I make the point of order against the amendment.

THE CHAIRMAN:⁽²⁾ Does the gentleman from New Jersey desire to be heard on the point of order?

MR. THOMPSON of New Jersey: Mr. Chairman, I concede the point of order.

. . .

THE CHAIRMAN: The point of order is sustained.

1. 101 CONG. REC. 6245, 6246, 84th Cong. 1st Sess.
2. Eugene J. Keogh (N.Y.).

Size of Army; "Not Less Than"**§ 41.3 An amendment to a general appropriation bill establishing a minimum size for a branch of the armed services was ruled out as legislation.**

On June 3, 1959,⁽³⁾ during consideration in the Committee of the Whole of the Defense Department appropriation bill (H.R. 7454), a point of order was raised against the following amendment:

The Clerk read as follows:

Amendment offered by Mr. [Robert L. F.] Sikes [of Florida]: Page 4, line 9, after the figure, strike out the period, add a semicolon, and the words "*Provided*, That the average strength of the Reserve personnel, Army, shall be maintained at not less than 300,000 during the fiscal year 1960."

Page 5, line 16, strike out the period, add a semicolon and the words, "*Provided further*, That the Army National Guard shall be maintained at not less than 400,000 during the fiscal year 1960." . . .

Mr. [GERALD R.] FORD [Jr., of Michigan]: Mr. Chairman, I make the point of order that this is legislation on an appropriation bill. I believe there are ample precedents to sustain such a point of order.

May I say, however, that I join the gentleman from Florida and others on the subcommittee in increasing the appropriation for the Army National Guard and the Army Reserve, to raise the number on active duty in the

3. 105 CONG. REC. 9715, 9716, 86th Cong. 1st Sess.

guard from 360,000 to 400,000 and for the Army Reserve from 270,000 to 300,000.

I am in full accord with the desire for larger strength, but I do feel that it is unwise to put this kind of language in an appropriation bill. Therefore, Mr. Chairman, I insist on my point of order.

THE CHAIRMAN:⁽⁴⁾ Does the gentleman from Florida desire to be heard further?

MR. SIKES: No, Mr. Chairman. I concede the point of order.

THE CHAIRMAN: The Chair sustains the point of order.

The Clerk will read.

Sense of Congress on Foreign Policy Issue**§ 41.4 A paragraph in a general appropriation bill expressing the sense of the Congress concerning the representation of the Chinese government in the United Nations was ruled out as legislation.**

On June 24, 1971,⁽⁵⁾ during consideration in the Committee of the Whole of a general appropriation bill, a point of order was raised against the following provision:

The Clerk read as follows:

Sec. 105. It is the sense of the Congress that the Communist Chi-

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

5. 117 CONG. REC. 21892, 92d Cong. 1st Sess.

See also 105 CONG. REC. 14529, 86th Cong. 1st Sess., July 28, 1959.

nese Government should not be admitted to membership in the United Nations as the representative of China.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Chairman, I make the point of order against section 105, lines 20 through 22, as being legislation on an appropriation bill.

THE CHAIRMAN:⁽⁶⁾ Does the gentleman from New York (Mr. Rooney) desire to be heard on the point of order?

MR. [JOHN J.] ROONEY of New York: Yes, Mr. Chairman.

Mr. Chairman, this provision has been in this bill for many many years. It goes back to the time that the late Senator from Nevada, Pat McCarran, was chairman of Senate appropriations for this bill.

However, I am constrained to have to concede that the point of order has merit.

THE CHAIRMAN: The gentleman from New York concedes the point of order.

The point of order is sustained.

***International Organizations;
Limiting U.S. Contribution to
Percent of Total Cost***

§ 41.5 To a provision in a general appropriation bill, an amendment providing that in no case shall the United States contribution to any international organization exceed one-third of the estimated total annual cost was held to change existing law

6. Thomas G. Abernethy (Miss.).

and, therefore, to be legislation on an appropriation bill.

On July 25, 1951,⁽⁷⁾ during consideration in the Committee of the Whole of a general appropriation bill (H.R. 4740), a point of order was raised against the following amendment:

MR. [JOHN BELL] WILLIAMS of Mississippi: Mr. Chairman, I offer an amendment which is at the desk.

The Clerk read as follows:

Amendment offered by Mr. Williams of Mississippi: Page 6, line 6, after the period add a new proviso to read: *Provided further*, That in no case shall the United States contribution to any international organization exceed one-third of the estimated total annual cost."

MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, I am constrained to insist upon the point of order that this is legislation on an appropriation bill. We already have basic legislation setting a ceiling on these contributions to international organizations.

THE CHAIRMAN:⁽⁸⁾ Does the gentleman from Mississippi desire to be heard on the point of order?

MR. WILLIAMS of Mississippi: Mr. Chairman, I have nothing to say except that I insist it is a limitation of appropriations. The amendment speaks for itself.

THE CHAIRMAN: The amendment certainly goes far beyond being a limitation.

The gentleman from Mississippi has offered an amendment; the gentleman

7. 97 CONG. REC. 8881, 8885, 82d Cong. 1st Sess.

8. Jere Cooper (Tenn.).

from New York has made a point of order against the amendment on the ground that it is legislation on an appropriation bill. The Chair invites attention to the fact that the amendment provides for changes in existing law with respect to international organizations and, of course, is legislation and not in order on an appropriation bill.

The Chair sustains the point of order.⁽⁹⁾

Trade With Cuba

§ 41.6 Language in a general appropriation bill prohibiting aid under the Foreign Assistance Act of 1961 to any country which furnishes or permits ships under its registry to carry certain strategic materials to Cuba was ruled out as legislation, since the provision was a permanent restriction on the authorization rather than upon the funds carried in the pending bill.

On June 4, 1970,⁽¹⁰⁾ during consideration in the Committee of the Whole of the foreign assistance appropriation bill (H.R. 17867), a point of order was raised against the following provision:

The Clerk read as follows:

9. The ruling would also be justified on grounds that the language at issue was not limited to funds in the bill.
10. 116 CONG. REC. 18403, 91st Cong. 2d Sess.

Sec. 107. (a) No assistance shall be furnished under the Foreign Assistance Act of 1961, as amended, to any country which sells, furnishes, or permits any ships under its registry to carry to Cuba, so long as it is governed by the Castro regime, in addition to those items contained on the list maintained by the Administrator pursuant to title I of the Mutual Defense Assistance Control Act of 1951, as amended, any arms, ammunition, implements of war, atomic energy materials, or any other articles, materials or supplies of primary strategic significance used in the production of arms, ammunition, and implements of war or of strategic significance to the conduct of war, including petroleum products.

MR. [PETER H. B.] FRELINGHUYSEN [of New Jersey]: Mr. Chairman, I make a point of order against section 107(a) on the ground that it is legislation in an appropriations bill. . . . Mr. Chairman, section 620 of the Foreign Assistance Act contains similar restrictions, but they are much more detailed, specific, and restricted than those contained in the provision which I am seeking to strike from the appropriation bill.

THE CHAIRMAN:⁽¹¹⁾ Does the gentleman from Louisiana care to be heard?

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, your committee felt that the language contained a very definite limitation. The language itself states—

No assistance shall be furnished under the Foreign Assistance Act of 1961, as amended, to any country which sells, furnishes, or permits any ships under its registry to carry to Cuba—

11. Hale Boggs (La.).

That provision has stood up over the years as being a limitation. We feel that it is, and we ask the Chair for a ruling.

THE CHAIRMAN: The Chair is ready to rule. As the gentleman from New Jersey has pointed out, the language is similar but it is not identical with the provisions of section 620 of the Foreign Assistance Act as amended. In addition, it relates to provisions other than those contained in this bill, and the Chair sustains the point of order.

Penalty on Subversives' Accepting Employment

§ 41.7 To a bill making supplemental appropriations for national defense, an amendment in the form of a limitation prohibiting payment of salary and wages of any person who advocates overthrow of the government, and fixing a penalty for accepting such work or wages, was conceded and held to be legislation on an appropriation bill and not in order.

On Oct. 10, 1941,⁽¹²⁾ during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 5788), a point of order was raised against the following provision:

The Clerk read as follows:

12. 87 CONG. REC. 7833, 77th Cong. 1st Sess.

TITLE III—GENERAL PROVISIONS

Sec. 301. No part of any appropriation contained in this act shall be used to pay the salary or wages of any person who advocates or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence . . . *Provided further*, That any person who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence and accepts employment the salary or wages for which are paid from any appropriation in this act shall be guilty of a felony and upon conviction, shall be fined not more than \$1,000 or imprisoned for not more than 1 year. . . .

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Chairman, I make the point of order against the paragraph that it is legislation which would interfere with our relations with our friend and ally, Joseph Stalin, and the Soviet Government.

THE CHAIRMAN:⁽¹³⁾ Does the gentleman from Missouri desire to be heard on the point of order?

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

THE CHAIRMAN: The point of order is sustained.

Mandating Domestic Use of Foreign Aid Funds

§ 41.8 To an amendment proposing to increase the amount appropriated for economic assistance (defense

13. Schuyler Otis Bland (Va.).

support) under the Mutual Security Act program, an amendment imposing a minimum availability of that amount for aid to distressed areas in the United States was conceded to be legislation as well as nongermane and was ruled out on a point of order.

On June 17, 1960,⁽¹⁴⁾ during consideration in the Committee of the Whole of the mutual security appropriation bill (H.R. 12619), a point of order was raised, as follows:

ECONOMIC ASSISTANCE

Defense support: For assistance authorized by section 131(b), \$600,000,000.

MR. [GERALD R.] FORD [of Michigan]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Ford: On page 2, line 18, strike out "\$600,000,000" and insert in lieu thereof "\$650,000,000". . .

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Michigan [Mr. Ford].

The Clerk read as follows:

Amendment offered by Mr. Gross to the amendment offered by Mr. Ford: On page 2, line 18, after the figure "\$600,000,000", strike out the period and insert a colon and add the following: *Provided*, That no less

than \$200,000,000 of the amount appropriated in this paragraph shall be made available to the distressed areas of the less developed States of the United States including but not limited to the States of West Virginia and Pennsylvania."

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, I make a point of order against the amendment.

Such action as proposed is not authorized, and I do not think the language of the bill would permit this type of amendment. I was not really expecting an amendment of such type, and it caught me just a little bit off guard. However, I do not think the gentleman from Iowa really wants to press the point.

MR. FORD: Mr. Chairman, may I be heard on the point of order?

THE CHAIRMAN:⁽¹⁵⁾ The Chair will hear the gentleman from Michigan on the point of order.

MR. FORD: Mr. Chairman, I join with the chairman of the subcommittee. I want to indicate that, in my opinion, this amendment is subject to a point of order. It is not germane to the bill and it is not authorized. In my opinion, therefore, it is subject to a point of order. . . .

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

THE CHAIRMAN: The gentleman concedes the point of order.

The point of order is sustained.

Foreign Aid; Earmarking of "Reasonable Amount" for Domestic Use

§ 41.9 To an appropriation bill providing funds for technical

14. 106 CONG. REC. 13117-19, 86th Cong. 2d Sess.

15. Wilbur D. Mills (Ark.).

cooperation programs of the Organization of American States, an amendment to provide that "a reasonable amount of the funds provided herein may be" available for distribution in underdeveloped areas in the United States was conceded to be legislation and held not in order.

On Aug. 15, 1957,⁽¹⁶⁾ during consideration in the Committee of the Whole of the mutual security appropriation bill (H.R. 9302), a point of order was raised against the following amendment:

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gross: Page 3, line 15, after the word "program" strike out the semicolon, insert a colon, and add the following:

"Provided further, That a reasonable amount of the funds provided herein may be used for the underdeveloped areas of the United States of America where women's wearing apparel is made from feedbags, such funds to be made available to and distributed by the University of Pennsylvania."

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, I am constrained to make a point of order against the amendment on the ground that it is legislation on an appropriation bill.

16. 103 CONG. REC. 14952, 85th Cong. 1st Sess.

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

THE CHAIRMAN:⁽¹⁷⁾ The Chair sustains the point of order.

Sense of Congress Regarding Panama Canal

§ 41.10 To a provision in a general appropriation bill (permitted to remain by failure to raise a point of order) stating the sense of Congress that any new Panama Canal treaty must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, and defense of the Canal, an amendment striking that provision and inserting a statement that it was the sense of Congress that any such treaty must not abrogate or vitiate the "traditional interpretation" of past Panama Canal treaties, with special reference to territorial sovereignty, was ruled out as constituting a different statement of legislative policy, not merely perfecting in nature, which was further legislation.

On June 10, 1977,⁽¹⁸⁾ during consideration in the Committee of

17. Wilbur D. Mills (Ark.).

18. 123 CONG. REC. 18402, 18403, 95th Cong. 1st Sess.

the Whole of the Departments of State, Justice, Commerce, and the Judiciary appropriation bill, a point of order was sustained against the following amendment:

MR. [ELDON J.] RUDD [of Arizona]: Mr. Chairman, I offer an amendment. (The portion of the bill to which the amendment relates is as follows:)

Sec. 104. It is the sense of the Congress that any new Panama Canal treaty or agreement must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property and defense of the Panama Canal.

The Clerk read as follows:

Amendment offered by Mr. Rudd: Page 14, delete lines 1 through 5 and insert in lieu thereof:

Sec. 104. It is the sense of the Congress that any new Panama Canal treaty or agreement must not abrogate or vitiate the traditional interpretation of the treaties of 1903, 1936, and 1955, with special reference to matters concerning territorial sovereignty. . . .

MR. [JOHN M.] SLACK [of West Virginia]: Mr. Chairman, I make a point of order reluctantly, because the amendment deals with matters not addressed in the bill and is clearly legislation on an appropriation bill. . . .

MR. RUDD: . . . This is simply a clarification to section 104. We have heard many statements here this afternoon and this morning regarding the desire by many of our distinguished colleagues here, and I think that they are in favor of retaining the Panama Canal. All this does is to clarify this language, put it in proper perspective, so that there will be no question about the retention of the Panama Canal.

THE CHAIRMAN:⁽¹⁹⁾ The Chair is prepared to rule.

The gentleman from Arizona (Mr. Rudd) offered an amendment to section 104, which is a sense of the Congress section.

The amendment offered by the gentleman from Arizona (Mr. Rudd) would change the sense of the Congress legislation permitted to remain in the bill and would clearly alter it. The gentleman's amendment would be further legislation on an appropriation bill and subject to a point of order. The Chair must sustain the point of order made by the gentleman from West Virginia (Mr. Slack).

42. District of Columbia

Office of Corporation Counsel; Salary Rates Fixed by Commissioner

§ 42.1 A paragraph in a general appropriation bill for the District of Columbia permitting the use of funds in the bill by the Office of the Corporation Counsel to retain professional experts at rates fixed by the commissioner was conceded to be legislation and was ruled out in violation of Rule XXI clause 2.

On June 18, 1973,⁽²⁰⁾ during consideration in the Committee of

19. Walter Flowers (Ala.).

20. 119 CONG. REC. 20068, 93d Cong. 1st Sess.