

**employees of the United States on whose certificate or approval loans are made shall not be liable for loss by fraud, if the Governor of the Farm Credit Administration determines that such employee has exercised reasonable care in the circumstances, was conceded to be legislation on an appropriation bill and held not in order.**

On Apr. 19, 1943,<sup>(16)</sup> 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:

Farmers' crop production and harvesting loans: For loans to farmers under the act of January 29, 1937 . . . *Provided*, That no employee of the United States on whose certificate or approval loans under said act of January 29, 1937, as amended, or other acts of the same general character, are or have been made, shall be held personally liable for any loss or deficiency occasioned by the fraud or misrepresentation of applicants or borrowers, if the Governor of the Farm Credit Administration shall determine that such employee has exercised reasonable care in the circumstances, and has complied with the regulations of the Farm Credit Administration in executing such certificate or giving such approval. . . .

16. 89 CONG. REC. 3591, 78th Cong. 1st Sess.

MR. [HAMPTON P.] FULMER [of South Carolina]: Mr. Chairman, I make a point of order.

THE CHAIRMAN:<sup>(17)</sup> The gentleman will state it.

MR. FULMER: I make the point of order against the language on page 87, beginning with line 1, down to and including line 16, that it is legislation on an appropriation bill not authorized by law.

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

THE CHAIRMAN: The point of order is sustained.

## § 44.—Congressional Salaries and Allowances

### *Congressional Salaries*

**§ 44.1 For a limiting amendment to a general appropriation bill, a substitute amendment increasing the salary of Members of Congress was conceded and held to be subject to a point of order.**

On Apr. 22, 1953,<sup>(18)</sup> during consideration in the Committee of the Whole of the independent offices appropriation bill (H.R. 4663), a point of order was raised against a substitute for the following amendment:

Amendment offered by Mr. [John Bell] Williams of Mississippi: Page 49,

17. William M. Whittington (Miss.).

18. 99 CONG. REC. 3608, 83d Cong. 1st Sess.

after section 303, add a new section as follows:

"Sec. 304. No part of the funds appropriated in this act shall be used to pay the salary of any employee provided for in this appropriation at a rate in excess of the salary now paid to Members of the Senate and House of Representatives: *Provided, however,* That such limitations shall not apply to the office of the President of the United States." . . .

MR. [JOHN W.] McCORMACK [of Massachusetts]: Mr. Chairman, I offer a substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. McCormack as a substitute for the amendment offered by Mr. Williams of Mississippi:

"The salaries of Members of the Congress after the enactment of this bill shall be \$22,500 per year."

MR. WILLIAMS of Mississippi: Mr. Chairman, I make a point of order against the amendment.

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

THE CHAIRMAN:<sup>(19)</sup> The Chair sustains the point of order.

**§ 44.2 An appropriation for "additional salaries" at a specified annual rate of Senators, Representatives in Congress, Delegates, and Commissioners was held to be legislation on an appropriation bill and not in order.**

19. Jackson E. Betts (Ohio).

On Dec. 6, 1944,<sup>(20)</sup> during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 5587), the following proceedings took place:

For payment to the widow of Hampton P. Fulmer, late a Representative from the State of South Carolina, \$10,000 to be disbursed by the Sergeant at Arms of the House.

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. Celler, of New York: On page 2, after line 6, insert a new paragraph as follows:

"For additional salaries at the additional rate of \$2,500 per annum, from January 1, 1945, to June 30, 1945, of Senators, Representatives in Congress, Delegates from Territories, the Resident Commissioner of Puerto Rico, and the Resident Commissioner from the Philippine Islands, \$668,750."

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, I regret to have to make a point of order against the amendment, that there is no legislation authorizing such an appropriation. . . .

THE CHAIRMAN:<sup>(1)</sup> . . . The Chair sustains the point of order made by the gentleman from Missouri [Mr. Cannon].

***Increase in Members' Clerk-hire***

**§ 44.3 To a legislative appropriation bill, an amendment**

20. 90 CONG. REC. 8936, 8937), 78th Cong. 2d Sess.

1. Herbert C. Bonner (N.C.).

**providing that the clerk-hire roll of each Member be increased by one employee was ruled out as legislation.**

On June 27, 1968,<sup>(2)</sup> During consideration in the Committee of the Whole of the legislative appropriation bill (H.R. 18038), a point of order was raised against the following amendment:

MR. [WILLIAM F.] RYAN [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ryan: On page 6, line 20, strike out the period, insert a colon, and add the following: "*Provided*, That each Member's clerk-hire roll may be increased by one employee for the purposes and to the extent authorized in House Resolution 416, 89th Congress."

MR. [GEORGE W.] ANDREWS of Alabama: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN:<sup>(3)</sup> The gentleman from Alabama will state his point of order.

MR. ANDREWS of Alabama: Mr. Chairman, it is legislation on an appropriation bill. . . .

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

MR. RYAN: Yes, Mr. Chairman.

2. 114 CONG. REC. 19093, 90th Cong. 2d Sess. H. Res. 416, 89th Congress, authorized Members to employ a student intern on a temporary basis in the summer.
3. John M. Murphy (N.Y.).

I would argue that the amendment is in order because the amendment relates to the purposes of House Resolution 416, which is referred to in the bill, and clearly, if lines 17 to 20 were in order and were included in the bill, then the proviso which my amendment adds to those lines is equally in order.

THE CHAIRMAN: The Chair is prepared to rule. The Chair has had the opportunity to study the amendment of the gentleman from New York and the Chair finds the question of one additional employee is, under the subject of clerk hire, within the jurisdiction of the Committee on House Administration. The amendment of the gentleman from New York would add legislation to an appropriation measure and therefore (be) in violation of clause 2, rule XXI, of the House of Representatives. The Chair therefore sustains the point of order.

***Staff Salaries—Making House Resolutions Permanent Law***

**§ 44.4 A provision in a supplemental appropriation bill declaring that certain House resolutions such as those relating to Members' clerk-hire, should be the permanent law with respect to their subject matter, was ruled out as legislation.**

On Sept. 22, 1964,<sup>(4)</sup> during consideration in the Committee of the Whole of a supplemental appro-

4. 110 CONG. REC. 22431, 88th Cong. 2d Sess.

priation bill (H.R. 12633), a point of order was raised against the following provision:

The Clerk read as follows:

CONTINGENT EXPENSES

For an additional amount for "Miscellaneous items", \$92,000, for payment to the Architect of the Capitol in accordance with section 208 of the Act approved October 9, 1940 (Public Law 812).

The provisions relating to allowances, positions, and salaries carried in House Resolutions 294, 831, and 832, Eighty-eighth Congress, shall be the permanent law with respect thereto.

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I make a point of order against the language appearing on page 12, lines 3 to 6, reading as follows:

The provisions relating to allowances, positions, and salaries carried in House Resolutions 294, 831, and 832, Eighty-eighth Congress, shall be the permanent law with respect thereto.

I make the point of order particularly with respect to lines 5 and 6, on the ground that this is legislation on an appropriation bill.

MR. [THOMAS J.] STEED [of Oklahoma]: Mr. Chairman, if I may be heard on the point of order, this is what has been in every legislative bill that has come before the House for a great many years. It is an established rule that the House has always followed. It seems to me that the committee is only following here what the House has always had as the procedure it has followed in this connection.

THE CHAIRMAN:<sup>(5)</sup> The Chair is prepared to rule.

5. Richard Bolling (Mo.).

What the gentleman from Oklahoma says is true, that this has been the practice of the House for a number of years, but on its face this is legislation on an appropriation bill. The Chair sustains the point of order.

— *Increasing Salaries*

**§ 44.5 To the legislative appropriation bill an amendment proposing that each Member may pay to one employee \$8,000 basic compensation in lieu of \$6,000 basic, as provided by law, was held to be legislation and not in order.**

On July 1, 1955,<sup>(6)</sup> during consideration in the Committee of the Whole of the legislative appropriation bill (H.R. 7117), the following occurred:

The Clerk read as follows:

MEMBERS' CLERK HIRE

For clerk hire, necessarily employed by each Member in the discharge of his official and representative duties, which shall be at the basic rate of \$15,000 per annum: *Provided*, That no salary shall be fixed hereunder at a basic rate in excess of \$6,000 per annum; \$11,500,000.

MR. [EARL] WILSON of Indiana: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wilson of Indiana: Page 4, line 15, after "of" strike out "\$6,000" and insert "\$8,000."

6. 101 CONG. REC. 9815, 9816, 84th Cong. 1st Sess.

MR. [WILLIAM F.] NORRELL (of Arkansas): Mr. Chairman, I make the point of order against the amendment that it is legislation on an appropriation bill. There is no authorization for this proposal. . . .

THE CHAIRMAN:<sup>(7)</sup> The Chair is ready to rule. The amendment of the gentleman from Indiana [Mr. Wilson] would change existing law by increasing the amount provided in the paragraph.

The Chair thinks the point of order is well taken and sustains the point of order.

### *Position Titles Changed*

#### **§ 44.6 To a provision in an appropriation bill for clerk-hire for Members and Delegates, an amendment proposing to designate such clerks as "secretaries" was held to constitute a change in existing law.**

On May 15, 1941,<sup>(8)</sup> during consideration in the Committee of the Whole of the legislative appropriation bill (H.R. 4576), a point of order was raised against the following provision:

The Clerk read as follows:

CLERK HIRE, MEMBERS AND  
DELEGATES

For clerk hire necessarily employed by each Member and Dele-

7. William M. Colmer (Miss.).

8. 87 CONG. REC. 4137, 77th Cong. 1st Sess.

gate, and the Resident Commissioner from Puerto Rico, in the discharge of his official and representative duties, in accordance with the act entitled "An act to fix the compensation of officers and employees of the legislative branch of the Government," approved June 20, 1929, as amended by the act of July 25, 1939, \$2,847,000.

MR. [GEORGE A.] DONDERO [of Michigan]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dondero: On page 21, line 12, strike out "clerk hire" and insert "secretaries to," and on page 21 in line 13, strike out "clerk hire" and insert "allowance for secretaries." . . .

MR. [EMMET] O'NEAL [of Kentucky]: Mr. Chairman, I insist on the point of order, and I may state that the ground of the point of order is that this is legislation on an appropriation bill.

THE CHAIRMAN:<sup>(9)</sup> The Chair is ready to rule.

In view of the fact that in the basic law the employees in the offices mentioned are referred to as clerks and in view of the fact that the amendment offered by the gentleman from Michigan [Mr. Dondero] would change existing law and would therefore be legislation on an appropriation bill, it is the opinion of the Chair that the amendment is clearly out of order, and the Chair therefore sustains the point of order.

### *Office Allowances*

#### **§ 44.7 Language in an appropriation bill increasing Mem-**

9. John J. Sparkman (Ala.).

**bers' telegraph, stationery, and telephone allowances an additional \$300 was conceded to be legislation on an appropriation bill and held not in order.**

On May 22, 1950,<sup>(10)</sup> during consideration in the Committee of the Whole of a deficiency appropriation bill (H.R. 8567), the following points of order were raised:

MR. [ERRETT P.] SCRIVNER (of Kansas): Mr. Chairman, against the language on page 4, lines 23 to 36, inclusive, reading:

For an additional amount for telegraph and telephone service, including an additional amount of \$300 for each Representative, Delegate, and the Resident Commissioner from Puerto Rico, \$131,400.

I make the point of order that there is no legislative authority for it.

THE CHAIRMAN:<sup>(11)</sup> Does the gentleman from North Carolina desire to be heard on the point of order?

MR. [JOHN H.] KERR [of North Carolina]: Mr. Chairman, we concede the point of order.

THE CHAIRMAN: The point of order is sustained.

The Clerk read as follows:

Stationery (revolving fund): For an additional amount for stationery, second session, Eighty-first Congress, including an additional stationery allowance of \$300 for each Representative, Delegate, and the

Resident Commissioner from Puerto Rico, \$131,400, to remain available until expended.

MR. SCRIVNER: Mr. Chairman, against the language on page 5, lines 7 to 11, inclusive, reading:

Stationery (revolving fund): For an additional amount of stationery . . . \$131,400 . . . .

I make the point of order that there is no legislation providing for the expenditure.

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

MR. KERR: The point of order is conceded.

THE CHAIRMAN: The point of order is sustained.

### ***Tax Treatment of Travel Expenses***

**§ 44.8 To a provision in a general appropriation bill appropriating funds for expenses of Members, an amendment seeking to amend Internal Revenue Code provisions affecting Members was held to be legislation on an appropriation bill and not germane thereto.**

On May 10, 1945,<sup>(12)</sup> during consideration in the Committee of the Whole of the legislative appropriation bill (H.R. 3109), a point of

10. 96 CONG. REC. 7416, 81st Cong. 2d Sess.

11. Charles M. Price (Ill.).

12. 91 CONG. REC. 4451-53, 79th Cong. 1st Sess.

order was raised against the following amendment:

MR. [WILLIAM M.] WHITTINGTON [of Mississippi]: Mr. Chairman, I offer a preferential amendment.

The Clerk read as follows:

Amendment offered by Mr. Whittington: Page 15, strike out all of line 25, and on page 16 all of lines 1, 2, 3, 4, and down to and including the word "installments" in line 5, and insert in lieu thereof the following:

"Section 23 (a) (1) (A) of the Internal Revenue Code (relating to deductibility of trade and business expenses) is amended by inserting at the end thereof a new sentence as follows: 'For the purposes of this chapter, in the case of an individual holding an office as a Member of the Congress of the United States of any State or Territory, his home shall be considered to be his place of residence within the State or Territory from which he is such a member, but the deduction allowable for this taxable year by reason of this sentence shall in no event exceed \$2,500, and shall be applicable only with respect to the taxable years after December 31, 1944.' "

MR. [EMMET] O'NEAL [of Kentucky]: Mr. Chairman, I make a point of order against the amendment. I make the same argument on the point of order that I made on the last amendment offered by the gentleman, namely, that that part of his amendment which says his home shall be his place of residence within the State or Territory, might affect provisions of law far beyond anything contemplated in this bill and is plainly legislation on an appropriation bill, and not germane. . . .

THE CHAIRMAN:<sup>(13)</sup> The Chair is ready to rule.

13. John J. Delaney (N.Y.).

The pending appropriation bill contains a provision that would allow Members of Congress a sum not exceeding \$2,500 to pay expenses. The amendment offered by the gentleman from Mississippi would constitute legislation on an appropriation bill, legislation which comes within the province of the Committee on Ways and Means. The Chair is of the opinion that the amendment is not germane to the pending paragraph and, therefore, sustains the point of order.

#### *Procedure for Employment of Committee Staff*

**§ 44.9 An amendment to a general appropriation bill, changing the procedure for the employment of committee staff personnel and in effect altering the method of staff selection specified in the Legislative Reorganization Act of 1946, was conceded and held to be legislation and was ruled out on a point of order.**

On Apr. 11, 1962,<sup>(14)</sup> during consideration in the Committee of the Whole of the legislative appropriation bill (H.R. 11151), a point of order was raised against the following amendment:

MR. [FREDERICK D.] SCHWENDEL [of Iowa]: Mr. Chairman, I offer an amendment.

14. 108 CONG. REC. 6353, 6354, 87th Cong. 2d Sess.

The Clerk read as follows:

Amendments offered by Mr. Schwengel: On page 3, strike lines 2 and 3 and insert "For committee employees, \$2,450,000: *Provided*, That at least \$747,000 or so much thereof as may be necessary to carry out the provisions of the House rules shall be available only for the payment of salaries of employees appointed at the request of a majority of the minority members of the committee."; and on page 4, line 16, delete "\$600,000" and insert "and for committee employees' salaries, \$1,050,000."; and on page 6, line 8, change the period to a colon and add: "*Provided*, That \$880,500 thereof shall be available only for payment of salaries of employees appointed at the request of a majority of the minority members of the committees." . . .

MR. [THOMAS J.] STEED [of Oklahoma]: Mr. Chairman, I make the point of order against the amendment on the grounds that it is legislation on an appropriation bill. While it appears to be a limitation it actually, in effect, is legislation. The Legislative Reorganization Act of 1946 and the rules of the House set out how the committees and their staffs are to be organized and appointed. The effect of this amendment, it seems to me, would be to change that. It would have the effect of making a legislative change. I think it is obviously legislation on an appropriation bill and that the point of order should be sustained. . . .

MR. SCHWENGEL: With the assurance of a distinguished Member on the other side, I concede the point of order.

THE CHAIRMAN:<sup>(15)</sup> The Chair has studied the amendment and believes it would provide a new method of hiring

personnel, and therefore would affect the Reorganization Act and the rules thereunder. It is legislation on an appropriation bill, and the Chair sustains the point of order.

### ***Requiring New Committee Regulations Concerning Allowance***

**§ 44.10 It is not in order on a general appropriation bill to require a congressional committee to promulgate regulations to limit the use of an appropriation; an amendment to the legislative branch general appropriation bill requiring the Committee on House Administration to promulgate rules to limit the amount of official mail sent by Members with the funds appropriated in the bill was ruled out as legislation.**

On June 13, 1979,<sup>(16)</sup> during consideration in the Committee of the Whole of the legislative branch appropriation bill (H.R. 4390), a point of order was sustained against the following amendment:

MR. [THOMAS J.] TAUKE [of Iowa]: Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates reads as follows:

16. 125 CONG. REC. 14670, 14671, 96th Cong. 1st Sess.

15. Clark W. Thompson (Tex.).

## OFFICIAL MAIL COSTS

For expenses necessary for official mail costs, \$70,707,000, to be disbursed by the Clerk of the House, to be available immediately on enactment of this Act.

The Clerk read as follows:

Amendment offered by Mr. Tauke: Page 12, line 3, strike out "\$70,707,000" and insert in lieu thereof "\$64,994,000".

Page 12, line 4, after the period, insert the following: "The Committee on House Administration shall set forth rules to uniformly limit the amount of official mail which may be sent by Members of the House with the use of funds appropriated under this paragraph." . . .

MR. [ADAM] BENJAMIN [Jr., of Indiana]: Mr. Chairman, I insist on my point of order.

Mr. Chairman, I would maintain that the gentleman's amendment is in violation of rule XXI, clause 2, since it is legislation on an appropriation bill. It establishes law where none exists. . .

MR. TAUKE: Mr. Chairman, the amendment speaks to the amount of dollars that would be appropriated for this particular item, and then it places restrictions on the use of those dollars. Under those circumstances, I believe the amendment is germane.

THE CHAIRMAN:<sup>(17)</sup> The amendment clearly requires action by the Committee on House Administration and, therefore, is legislating in an appropriation bill.

The Chair sustains the point of order.

17. John M. Murphy (N.Y.).

## § 45. Housing and Public Works

### *Restrictions on Use of Appropriation and Contract Authority*

**§ 45.1 In an appropriation bill a provision that the Public Housing Administration shall not authorize the commencement of construction during a certain year of more than 20,000 dwelling units was held to be legislation, and in the same appropriation bill a series of provisions (relating to the program of the Public Housing Administration) (1) prohibiting the use of an appropriation in the bill unless regulations are adopted restricting eligibility of certain persons to be tenants of low-rent housing units, (2) requiring that expenditures of such appropriation be subject to audit by the Comptroller General, (3) prohibiting the authorization of public housing unless the governing body of the locality agrees to the completion thereof and prohibiting the continuation of construction of public housing where a community by their representatives or by ref-**