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:[17] 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-

erendum have indicated they do not want it, (4) requiring that the records of expenditure on any public housing project shall be open to examination by responsible community authorities, and (5) prohibiting occupancy of certain housing by persons belonging to organizations designated as subversive and requiring such prohibition to be enforced by local housing authorities were also held to be legislation.

On Mar. 30, 1954,[18] during consideration in the Committee of the Whole of the independent offices appropriation bill (H.R. 8583), a point of order was raised against the following provision:

> The Clerk read as follows:
>
> Annual contributions: For the payment of annual contributions to public housing agencies . . . $63,950,000: *Provided,* That except for payments required on contracts entered into prior to April 18, 1940, no part of this appropriation shall be available for payment to any public housing agency for expenditure in connection with any low-rent housing project, unless the public housing agency shall have adopted regulations prohibiting [occupancy by] any person other than a citizen of the United States. . . . *Provided further,* That all expenditures of this appropriation shall be subject to audit and final settlement by the Comptroller General of the United States under the provisions of the Budget and Accounting Act of 1921, as amended: *Provided further,* That unless the governing body of the locality agrees to its completion, no housing shall be authorized by the Public Housing Administration, or, if under construction continue to be constructed, in any community where the people of that community, by their duly elected representatives, or by referendum, have indicated they do not want it, and such community shall negotiate with the Federal Government for the completion of such housing, or its abandonment . . . and shall agree to repay to the Government the moneys expended prior to the vote or other formal action whereby the community rejected such housing project for any such projects not to be completed . . . *Provided further,* That the record of expenditure of the Public Housing Administration and of the local housing authority on any public housing project shall be open to examination by the responsible authorities of any community in which such project is located, or by the local public housing authority, or by any firm of public accountants retained by either of the foregoing . . . *Provided further,* That notwithstanding the provisions of the United States Housing Act of 1937, as amended, the Public Housing Administration shall not, with respect to projects initiated after March 1, 1949, authorize during the fiscal year 1955 the commencement of construction of in excess of 20,000 dwelling units.

MR. [ABRAHAM J.] MULTER [of New York]: I tried to make a point of order before, and I do want to make a point of order now, but my inquiry is whether or not I should make my point of order against each of the provisos in this section at this time or whether I shall make the point of order against the paragraph as a whole?

18. 100 CONG. REC. 4123, 4124, 83d Cong. 2d Sess.

THE CHAIRMAN:[19] the gentleman may make his point of order after the paragraph has been read. . . .

MR. [HOWARD W.] SMITH of Virginia: Mr. Chairman, I make the point of order against the language on page 31, beginning at line 12 and running through line 17. That is the provision with respect to 20,000 housing units.

Mr. Chairman, I am prepared to discuss the point of order if it is going to be contested.

MR. MULTER: Mr. Chairman, I have a point of order to a paragraph prior to that one.

THE CHAIRMAN: The gentleman will state it. . . .

MR. [CHARLES A.] HALLECK [of Indiana]: Should not the point of order that has been made be ruled upon before we take up any other points of order?

THE CHAIRMAN: The Chair will consider all points of order against the paragraph now. They may be stated and we may consider them at this time.

MR. MULTER: I make the point of order against the provisos beginning on page 29, lines 12, and running to page 31, line 11 on the ground that each of those provisos is legislation on an appropriation bill.

THE CHAIRMAN: Does the gentleman from California desire to be heard on these points of order?

MR. [JOHN] PHILLIPS [of California]: Mr. Chairman, may I take them up in the order in which they were made.

The effect of the point of order made against the proviso on page 31, line 12 is this, as the committee understands it. It is to remove the limitation and leave the opinion of the Comptroller General to stand that there could then be built no more than 33,000 or 34,000 houses—whatever the exact number is—that were contracted for prior to the adoption of the appropriation bill of 2 years ago for the fiscal year 1953. We concede the point of order. . . .

MR. [SIDNEY R.] YATES [of Illinois]: I understand that the chairman of our subcommittee was addressing himself to the point of order made by the gentleman from Virginia [Mr. Smith], to the language appearing on page 31 between lines 12 and 17. As I understand that language, it is a limitation upon the appropriation that is contained in this bill as to the amount of money that may be used for the purpose of constructing housing units, and to that extent it is perfectly proper. . . .

MR. SMITH of Virginia: Mr. Chairman, I think it is necessary under the circumstances to go back to the previous bill, of last year, on this subject and the limitation contained therein. My point of order goes to the question that the provision in this bill is legislation more than it is a limitation. The point of order is directed at the point that this is legislation on an appropriation bill.

What happened about it is that the Housing Act was passed as an amendment to the old Housing Act of 1949, which authorized the construction of a certain number of units of public housing per annum. That was a matter of great controversy through the years. Ultimately the thing came to a head in the independent offices appropriation bill for the fiscal year ending June 30, 1954. In that independent offices appropriation bill was contained this pro-

19. Louis E. Graham (Pa.).

vision of law, which is the law upon the subject of public housing today. That provision in last year's independent offices appropriation bill I would like to read for the Record. It states:

> The Public Housing Administration shall not, after the date of approval of this act, enter into any new agreements, contracts, or other arrangements, preliminary or otherwise, which will ultimately bind the Public Housing Administration during fiscal year 1954 or for any future years with respect to loans or annual contributions for any additional dwelling units or projects unless hereafter authorized by the Congress to do so.

That is all of the quotation that is pertinent to the question which I raise.

In other words, the law is that not a single unit of public housing can be contracted for until it is authorized by the Congress. An authorization does not mean authorization in an appropriation bill. So, this being an appropriation bill, and the provision to which I have raised the point of order being legislation which changes existing law under last year's act, it is subject to the point of order.

MR. YATES: Mr. Chairman, if I may be heard in reply to the gentleman in opposition to the point of order, the gentleman from Virginia is correct with respect to the provisions of the appropriation bill last year. However, I respectfully direct the attention of the Chair to that provision, and I reread it, which states, "after the date of approval of this act, enter into any new agreements, contracts, or other arrangements, preliminary or otherwise."

Mr. Chairman, the units that are provided for in this act are not the subject of any new agreements that were entered into subsequent to this provision. They are units which were authorized under previous provisions of the law and are, therefore, a proper subject for this appropriation bill.

MR. SMITH of Virginia: You concede that this changes the law, do you not?

MR. YATES: I concede it changes the law from the date of enactment of the independent offices appropriation bill of 1954.

MR. SMITH of Virginia: That is the law today so you are changing the law without legislative authorization.

MR. YATES: I conceded it was the law with respect to new contracts. I did not concede it was the law with respect to other contracts.

MR. SMITH of Virginia: But does it change the law?

MR. YATES: Not with respect to units not the subject of the appropriations bill. . . .

THE CHAIRMAN: The Chair is ready to rule.

The Chair has in mind Public Law 176 of the 83d Congress which has been referred to, and the sections which have been quoted here. The Chair also has in mind the provisos and will pass upon the point of order raised by the gentleman from Virginia [Mr. Smith] and the points of order raised by the gentleman from New York [Mr. Multer] beginning on page 29, line 12 and extending to the end of the paragraph. In the opinion of the Chair, the language is purely legislation on an appropriation bill and the Chair sustains the points of order. . . .

[Parliamentary inquiries were then made:]

MR. [JERE] COOPER [of Tennessee]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. COOPER: Did the Chair sustain all points of order that had been made or just the point of order made by the gentleman from Virginia?

THE CHAIRMAN: The Chair sustained the point of order made by the gentleman from Virginia and those made by the gentleman from New York [Mr. Multer]. . . .

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, in reference to the point of order raised by the gentleman from Virginia, is the ruling of the Chair predicated upon the fact that the Chair is of the opinion that there is no authorization in the law at the present time for the appropriation or for money for the construction of housing units?

THE CHAIRMAN: No; the Chair did not so rule. The Chair held that the language of the bill itself is legislation.

MR. MCCORMACK: In other words, Mr. Chairman, the gentleman from Massachusetts is seeking for the purposes of the record and also in view of other considerations, for example, the bill which is coming up tomorrow, to try to ascertain the basic thought in the mind of the Chairman. The gentleman from Virginia made a point of order based upon certain provisions in the appropriation bill of last year, a rider so-called. The gentleman from Massachusetts in his parliamentary inquiry is seeking to find out from the Chairman if the reason for sustaining the point of order made by the gentleman from Virginia [Mr. Smith] is that the rider of last year repealed any authorization for appropriations for the construction of housing projects.

THE CHAIRMAN: The Chair has held that the proviso, the very language itself, which is as follows:

> That notwithstanding the provisions of the United States Housing Act of 1937, as amended, the Public Housing Administration shall not, with respect to projects initiated after March 1, 1949, (1) authorize during the fiscal year 1954 the commencement of construction of in excess of 20,000 dwelling units—

is on its face legislation.

MR. MCCORMACK: Does the Chairman hold that that is a repeal of any previous authorization of law?

THE CHAIRMAN: No; the Chair is not ruling on that. The Chair is ruling that this language on its face is legislation on an appropriation bill.

Total Number of Housing Units in Current and Future Fiscal Years

§ 45.2 To an appropriation bill an amendment providing that notwithstanding certain provisions of law the Public Housing Administration shall not authorize the commencement of construction of more than 35,000 dwelling units in a certain year, nor more than 35,000 units for each of the three succeeding years unless a greater number is hereafter authorized by Congress was held to be legislation.

On Mar. 30, 1954,[20] during consideration in the Committee of the Whole of the independent offices appropriation bill (H.R. 8583), a point of order was raised against the following amendment:

Amendment offered by Mr. [Sidney R.] Yates (of Illinois): Page 29, after line 12, insert "Provided further, That notwithstanding the provisions of the United States Housing Act of 1937, as amended, the Public Housing Administration shall not, with respect to projects initiated after March 1, 1949, authorize during fiscal year 1955 the commencement of construction of in excess of 35,000 dwelling units and (2) after the date of approval of this act, enter into any agreement, contract, or other arrangement which will bind the Public Housing Administration with respect to loans, annual contributions, or authorizations for commencement of construction for dwelling units aggregating in excess of 35,000 units each year during fiscal years 1956, 1957, and 1958, unless a greater number of units is hereafter authorized by the Congress."

MR. [JOHN] PHILLIPS [of California]: Mr. Chairman, I make the point of order that the amendment offered by the gentleman from Illinois (Mr. Yates) is out of order. The Chair has already ruled that the first part of the amendment just read is legislation, and the balance of the amendment is obviously legislation, going beyond the limits of the provision upon which the Chair has already ruled. It changes existing law. . . .

THE CHAIRMAN:[1] The Chair is prepared to rule. The Chair understands that part of the language is the same as that upon which the Chair has already ruled and has been stricken out, and the rest of the language on its face is legislation. The Chair sustains the point of order.

Restriction of Contract Authority

§ 45.3 A provision in a general appropriation bill changing existing law by restricting the contract authority of the Housing and Home Finance Administrator under the Housing Act of 1961, to an amount "within the limits of appropriations made available therefor," was conceded to be legislation and was ruled out on a point of order.

On Sept. 15, 1961,[2] during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 9169), a point of order was raised against the following provision:

LOW-RENT HOUSING DEMONSTRATION PROGRAMS

For low-rent housing demonstration programs as authorized by section 207 of the Housing Act of 1961 (75 Stat. 165), $2,000,000, of which not to exceed $20,000 shall be available for administrative expenses, and such sec-

20. 100 CONG. REC. 4124, 4125, 83d Cong. 2d Sess.

1. Louis E. Graham (Pa.).

2. 107 CONG. REC. 19730, 87th Cong. 1st Sess.

tion 207 is hereby amended by inserting after the word "authorized" the phrase "within the limits of appropriations made available therefor".

MR. [ALBERT] RAINS [of Alabama]: Mr. Chairman, I rise to make a point of order.

THE CHAIRMAN:[3] the gentleman from Alabama will state his point of order.

MR. RAINS: Mr. Chairman, I make a point of order against the language, the two words "low-rent" in line 20 on page 14, and on line 22, "$2,000,000, of which", and line 1 on page 15, beginning with the words "and such section 207" down to and including the rest of the paragraph.

Mr. Chairman, I make only the remark that this constitutes legislation on an appropriation bill. . . .

MR. [ALBERT] THOMAS [of Texas]: Mr. Chairman, the gentleman is right. But the committee did not want to be accused of tearing up the program as unnecessary; I will use that word. That is a polite word. . . .

Mr. Chairman, I think the point of order is good, and I join my friend, the gentleman from Alabama [Mr. Rains] and make a point of order against the entire paragraph.

THE CHAIRMAN: The point of order is sustained.

Authorizing and Directing Agency Action

§ 45.4 In a general appropriation bill a provision requiring a government agency which is selling mortgages to afford the mortgagor an opportunity to buy the mortgage at the same discount offered to a financial institution was conceded and held to be legislation.

On Mar. 31, 1954,[4] during consideration in the Committee of the Whole of the independent offices appropriation bill (H.R. 8583), the following point of order was raised:

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Chairman, I make the point of order with respect to the language on page 59, from the proviso in line 9 down to and including line 17, as being legislation on an appropriation bill. . . .

THE CHAIRMAN:[5] Without objection the Clerk will read the language referred to.

The Clerk read as follows:

> *Provided further,* That the Federal National Mortgage Association is authorized and directed prior to the conclusion of any sale of a mortgage at a discount to a financial institution to offer the mortgage to the mortgagor at the same discount, and that an offer shall be considered properly made when addressed by registered letter to the mortgagor, who may tender the purchase price, less discount, to the Federal National Mortgage Association within 2 weeks from date of receipt of such offer.

THE CHAIRMAN: Does the gentleman from California [Mr. Phillips] desire to be heard on this point of order?

---

3. Oren Harris (Ark.).

4. 100 CONG. REC. 4258, 83d Cong. 2d Sess.

5. Louis E. Graham (Pa.).

MR. [JOHN] PHILLIPS: No, Mr. Chairman. We concede the point of order.

THE CHAIRMAN: In the opinion of the Chair, this is legislation upon an appropriation bill, and the point of order is sustained.

Delegation of Authority of Federal Works Administrator

§ 45.5 A provision in a general appropriation bill permitting the Federal Works Administrator to delegate to the principal administrative officer of that activity the authority to make appointments of certain personnel was conceded and held to be legislation on an appropriation bill and not in order.

On Feb. 8, 1945,[6] during consideration in the Committee of the Whole of the independent offices appropriation bill (H.R. 1984), a point of order was raised against the following provision:

The Clerk read as follows:

Public works advance planning: Toward accomplishing the provisions of title V of the War Mobilization and Reconversion Act of 1944, $5,000,000, to be immediately available and to remain available until expended, of which not to exceed 4 percent shall be available for administrative expenses necessary therefor, to be immediately available and to remain available until June 30, 1946 . . . *Provided*, That the Federal Works Administrator may delegate to the principal administrative officer of this activity the authority to make appointments of personnel hereunder.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, a point of order.

The Chairman:[7] The gentleman will state his point of order.

MR. CASE of South Dakota: Mr. Chairman, I make a point of order against the paragraph on the ground it contains legislation in an appropriation bill. I invite the attention of the Chairman particularly to the language in lines 14 and 15, page 18, which says:

to be immediately available and to remain available until expended.

And also to the language beginning in line 24 saying:

Provided, That the Federal Works Administrator may delegate to the principal administrative officer of this activity the authority to make appointments of personnel hereunder.

I direct the point of order to the entire paragraph.

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

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

THE CHAIRMAN: The point of order is sustained.

Use of Water Conditioned Upon Compliance With State Compact

§ 45.6 Language in a general appropriation bill providing

6. 91 CONG. REC. 941, 942, 79th Cong. 1st Sess.

7. William M. Whittington (Miss.).

that the use of water from a project for which an appropriation is being made shall be contingent upon compliance with a certain state compact was held to be legislation and not in order.

On May 14, 1937,[8] during consideration in the Committee of the Whole of the Interior Department appropriation bill (H.R. 6958), a point of order was raised against the following provision:

> The Clerk read as follows:
>
> Gila project, Arizona, $1,250,000: *Provided*, That any right to the use of water from the Colorado River acquired for this project and the use of the lands and structures for the diversion and storage of the same shall be subject to and controlled by the Colorado River Compact, as provided in section 8 of the Boulder Canyon Project Act, approved December 21, 1928 (45 Stat. 1062), and section 2 of the Rivers and Harbors Act of August 30, 1935 (49 Stat. 1040);
>
> MR. [LAWRENCE] LEWIS of Colorado: Mr. Chairman, I make a point of order against the paragraph beginning on page 76, line 20, down to the bottom of the page and continuing on down through and including line 3, on page 77, on the ground that this item of appropriation has not been authorized by law, and, further, that it is contrary to law. No authorization has been enacted for this item. . . .
>
> THE CHAIRMAN:[9] he Chair is prepared to rule. . . .
>
> The Chair also invites attention to the fact that the language that was called to the attention of the gentleman from Nevada [Mr. Scrugham] undoubtedly has some bearing upon the question as to whether or not this is legislation on an appropriation bill, especially the language carried in the proviso, which was recently discussed with the gentleman from Nevada. The gentleman from Nevada quite frankly replied to the inquiry of the Chair, that the purpose of including this language was to force compliance with a certain State compact.
>
> Therefore, the Chair feels there could be no doubt that the effect of the inclusion of this language would be that of legislation on an appropriation bill.

Storage Buildings as Adjunct to Forest Road Construction

§ 45.7 An appropriation for the construction of buildings for storage of equipment used for forest roads and trail construction and including a stated limit of cost for construction of any such building was held unauthorized by law.

On Mar. 28, 1939,[10] the Committee of the Whole was considering H.R. 5269, an Agriculture Department appropriation. At one point the Clerk read as follows,

8. 81 CONG. REC. 4607, 4612, 75th Cong. 1st Sess.

9. Jere Cooper (Tenn.).

10. 84 CONG. REC. 3458, 76th Cong. 1st Sess.

and proceedings ensued as indicated below:

FOREST ROADS AND TRAILS

For carrying out the provisions of section 23 of the Federal Highway Act approved November 9, 1921 (23 U.S.C. 23), including not to exceed $59,500 for departmental personal services in the District of Columbia, $10,000,000, which sum consists of the balance of the amount authorized to be appropriated for the fiscal year 1939 by the act approved June 16, 1936 (Stat. 1520), and $3,000,000 of the amount authorized to be appropriated for the fiscal year 1940 by the act approved June 8, 1938 (52 Stat. 635), to be immediately available and to remain available until expended: *Provided,* That this appropriation shall be available for the rental, purchase, or construction of buildings necessary for the storage of equipment and supplies used for road and trail construction and maintenance, but the total cost of any such building purchased or constructed under this authorization shall not exceed $7,500.[11]

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the paragraph that this is legislation on an appropriation bill providing for the construction of a building at a limit beyond that authorized by law.

THE CHAIRMAN:[12] Does the gentleman make the point of order against the proviso or against the entire paragraph?

MR. TABER: Against the paragraph.

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

MR. [CLARENCE] CANNON of Missouri: I may say, Mr. Chairman, that this provision in the bill is the only limiting authority. If the gentleman can cite us to some other authority establishing the limitation, I should be pleased to have the citation. There is no other limitation, Mr. Chairman, and the point of order is not well taken.

MR. TABER: There is no authorization for it at all.

THE CHAIRMAN: The point of order is sustained.

§ 46. Other Subjects

Budget Adjustments by Corporations and Agencies

§ 46.1 A section of the government corporations appropriation bill providing a procedure by which agencies, in order to meet emergencies arising after approval of the budget, could adjust their budgets to provide for programs "authorized by law and not specifically set forth in the Budget," was held to be legislation on an appropriation bill.

On June 13, 1946,[13] during consideration in the Committee of

11. The latter provision could be considered an interference with executive discretion, therefore legislation.

12. Wright Patman (Tex.).

13. 92 CONG. REC. 6876, 6877, 79th Cong. 2d Sess.