Further quoting, this time from volume VII, Cannon's Precedents, section 1628:

> And a provision which under the guise of limitation repeals or modifies existing law is legislation and is not in order on an appropriation bill.

For these reasons, Mr. Chairman, it is obvious that this amendment would impose additional duties on an executive officer and, therefore, clearly is subject to a point of order. . . .

MR. PANETTA: Mr. Chairman, in response to the point of order, I just make two points.

One, the fact that this is a limitation on an expenditure of funds, this is permitted under the House rules, that is, it is permitted where it involves small administrative detail, and that is essentially what we are dealing with here. We are not dealing with reinterpretation. We are not requiring new interpretation by the Internal Revenue Service, but what we are doing is telling them to abide by those procedures that were in effect in 1975.

Mr. Chairman, for those reasons, I think the amendment is in order.

THE CHAIRMAN:[12] If the gentleman from California (Mr. Panetta) would permit the Chair to direct a question to the gentleman for clarification, as the Chair understood the statement of the gentleman's colleague from California in the concluding remarks, the amendment does, in fact, does it not, require going back to the law as it was prior to December 31, 1975, rather than the law as it exists today?

MR. PANETTA: Mr. Chairman, that is correct.

THE CHAIRMAN: The Chair appreciates the candor of the gentleman from California (Mr. Panetta) in answer to the question. The Chair will state that he certainly did not mean to put the gentleman in this position purposely, but in view of the Chair's understanding of the language contained herein, he felt constrained to ask the question.

The statement of the gentleman from California (Mr. Panetta) would indicate that in fact the amendment would require a return to the law as it existed prior to December 31, 1975, and, therefore, the amendment does change existing law and constitutes legislation on an appropriation bill.

Therefore, the Chair sustains the point of order.

§ 48. Conditions Precedent to Spending

Requiring New Contractual Arrangements

§ 48.1 To an appropriation bill, an amendment making the money available on certain contingencies which would change the lawful mode of payment is legislation and not in order.

On Mar. 27, 1952,[13] during consideration in the Committee of the Whole of the Interior Department appropriation bill (H.R.

12. B. F. Sisk (Calif.).

13. 98 CONG. REC. 3064, 82d Cong. 2d Sess.

7176), a point of order was raised against the following provision:

MR. [TOBY] MORRIS [of Oklahoma]: Mr. Chairman, I make a point of order against the language beginning on line 24, page 13, and ending on line 12, page 14 inclusive as follows:

Provided further, That until such time as a repayment contract, covering the proper share of the cost of the facilities hereinafter stated, shall have been entered into between the United States and the prospective water users, no part of this appropriation shall be available for the initiation of construction of any dam or reservoir where the dominant purpose thereof is storage of water for irrigation or water supply, or any tunnel, canal or conduit for water, or water distribution system related to such dam or reservoir: *Provided further,* That funds appropriated in this act and heretofore for all such structures now under construction, shall not be available after January 1, 1954, unless such repayment contracts shall have been entered into by the prospective water users.

Mr. Chairman, I make the point of order against the language on the ground that it is legislation on an appropriation bill, and that it seeks to change existing law.

THE CHAIRMAN:[14] The gentleman refers to the proviso appearing in line 25, page 13, and the proviso starting at line 8 on page 14?

MR. MORRIS: I do, Mr. Chairman.

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

MR. [MICHAEL J.] KIRWAN [of Ohio]: No, Mr. Chairman, we concede the point of order.

THE CHAIRMAN: The gentleman from Oklahoma has made a point of order, as referred to by him, and the gentleman from Ohio concedes the point of order. Therefore, the Chair sustains the point of order.

Audit by Comptroller General

§ 48.2 To a legislative appropriation bill, an amendment requiring the imposition of an auditing and reporting procedure before funds can be expended was ruled out as legislation.

On Apr. 10, 1964,[15] during consideration in the Committee of the Whole of the legislative appropriation bill (H.R. 10723), a point of order was raised against the following amendment:

MR. OLIVER P. BOLTON [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Oliver P. Bolton: Page 26, after line 22 insert the following:

"Sec. 104. No funds appropriated in this Act for the House of Representatives or the Architect of the Capitol shall be used unless the expenditure of such funds is audited by the Comptroller General at such times as he may deem appropriate. For the purpose of conducting such audits, the provisions of section 313 of the Budget and Accounting Act (42 Stat. 26; 31 U.S.C. 54) shall be applicable to the legislative agencies under audit. The Comptroller Gen-

14. Jere Cooper (Tenn.).

15. 110 CONG. REC. 7642, 88th Cong. 2d Sess.

eral shall report to the Speaker of the House of Representatives the results of each such audit relating to the financial transactions of the House of Representatives, and shall report also to the Architect of the Capitol the results of the audit of his office. All such reports, including the reports required by the Act of July 26, 1949 (63 Stat. 482), shall be printed as House Documents."

MR. [THOMAS J.] STEED [of Oklahoma]: Mr. Chairman, it is with some reluctance that I must make a point of order against this amendment. . . .

MR. OLIVER P. BOLTON: Mr. Chairman, I wish to express my appreciation to the chairman of the subcommittee for reserving the point of order. I knew that a point of order would be made.

Mr. Chairman, the purpose and intent of my amendment is clear. Simply stated, the funds appropriated by H.R. 10723 would be subject to the limitations of the Accounting and Auditing Act of 1950, as amended, with a view toward making the operations of the House and the Office of the Architect of the Capitol subject to the same objective auditing standards as are other Government departments. . . .

Mr. Chairman, it is high time we opened our books to the public. Just like any executive agency, we are spending taxpayers' money for our daily operating expenses. There is no logical reason why we should not be subjected to a public audit. Who knows, maybe a little fat can be trimmed right in our own backyard.

THE CHAIRMAN:[16] It is obvious on its face that this amendment is legislation on an appropriation bill. The Chair sustains the point of order.

Parliamentarian's Note: On another occasion, an amendment to a legislative branch appropriation bill denying the obligation or expenditure of certain funds contained therein unless such funds were subject to audit by the Comptroller General was ruled out of order as legislation where it appeared that the amendment was intended by its proponents to extend and strengthen the authority of the Comptroller General under law to audit legislative accounts. The amendment in that instance was ruled out of order when it appeared that it was intended by its proponents to work a change in the law and to require audits, rather than simply state a condition precedent for obligation and expenditure of the funds. A subsequent amendment which denied the use of funds not subject to audit "as provided by law" was offered and adopted. See 124 CONG. REC. 17651, 95th Cong. 2d Sess., June 14, 1978 [H.R. 12935].

Prior Approval by Bureau of Budget and Submission to Congress

§ 48.3 Language in an appropriation bill providing funds for the Tennessee Valley Authority, stating that no part of the funds shall be used "unless and until" approved by the Director of the Bureau of the Budget and sub-

16. Clark W. Thompson (Tex.).

mitted to the Senate and House Committees on Appropriations, was conceded to be legislation and held not in order.

On May 22, 1956,[17] during consideration in the Committee of the Whole of a general appropriation bill (H.R. 11319), the following point of order was raised:

> MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Chairman, I make a point of order against certain language in the Tennessee Valley Authority paragraph as follows: . . .
>
> Third. Lines 13 to 22, the proviso reading: "That no part of funds available for expenditure by this agency shall be used, directly or indirectly, to acquire a building for use as an administrative office of the Tennessee Valley Authority unless and until the Director of the Bureau of the Budget, following a study of the advisability of the proposed acquisition, shall advise the Committees on Appropriations of the Senate and the House of Representatives and the Tennessee Valley Authority that the acquisition has his approval: Provided further.". . .
>
> MR. [CLARENCE] CANNON [of Missouri]: Mr. Chairman, the language read by the gentleman is unquestionably legislation on an appropriation bill and I therefore concede the point of order.
>
> THE CHAIRMAN:[18] . . . The gentleman from Missouri, chairman of the Committee on Appropriations, concedes the point of order.
>
> It is clearly legislation on an appropriation bill and the point of order is sustained.

Prior Approval by Public Housing Commissioner

§ 48.4 Language in a supplemental appropriation bill providing funds for the Housing and Home Finance Agency and containing a proviso that no funds appropriated therein or funds available for expenditure pursuant to section 10 of the Housing Act shall be available for certain expenditures unless made in accordance with a budget approved by the Public Housing Commissioner was conceded to be legislation and held not in order.

On June 23, 1960,[19] during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 12740), a point of order was raised against the following provision:

> HOUSING AND HOME FINANCE AGENCY
>
> *Public Housing Administration*
>
> Annual Contributions
>
> For an additional amount, fiscal year 1960, for "Annual contributions", $9

17. 102 CONG. REC. 8725, 84th Cong. 2d Sess.

18. Jere Cooper (Tenn.).

19. 106 CONG. REC. 14086, 86th Cong. 2d Sess.

million, and in addition $3 million to be derived from funds collected as fixed fees from local public housing authorities as required by law: *Provided*, That no funds appropriated herein, or funds available for expenditure pursuant to section 10 of the United States Housing Act of 1937, as amended, shall be available for the payment of contributions with respect to any local public agency expenditures for any project year ending after June 30, 1960, which are not made in accordance with a budget approved by the Public Housing Commissioner as reasonable, necessary, and consistent with economical operating policies.

Mr. [THOMAS L.] ASHLEY [of Ohio]: Mr. Chairman, a point of order.

THE CHAIRMAN:[20] The gentleman will state it.

MR. ASHLEY: Mr. Chairman, I make the point of order that the language contained on page 8, lines 7 through 15, is legislation on an appropriation bill.

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

MR. [ALBERT] THOMAS [of Texas]: We concede the point of order, Mr. CHAIRMAN.

THE CHAIRMAN: The Chair sustains the point of order.

Requiring State and Local Cost Sharing for Investigations

§ 48.5 Language in the Interior Department appropriation bill under the heading "General Investigations" providing that "the expenditure of any sums from this appropriation for investigations of any nature requested by States, municipalities, or other interests shall be upon the basis of the State, municipality, or other interest advancing at least 50 percent of the estimated cost of such investigations" was conceded to be legislation on an appropriation bill and held not in order.

On Apr. 25, 1947,[1] during consideration in the Committee of the Whole of the Interior Department appropriation bill (H.R. 3123), a point of order was raised against the following provision:

The Clerk read as follows:

GENERAL INVESTIGATIONS

General investigations: For engineering and economic investigations of proposed Federal reclamation projects and surveys, investigations, and other activities relating to reconstruction, rehabilitation, extensions, or financial adjustments of existing projects, and studies of water conservation and development plans, such investigations, surveys, and studies to be carried on by said Bureau either independently, or in cooperation with State agencies and other Federal agencies, including the Corps of Engineers, and the Federal Power Commission, $125,000, which may be used to execute detailed surveys, and to prepare construction plans and specifications: *Provided*,

20. Aime J. Forand (R.I.).

1. 93 CONG. REC. 4079, 80th Cong. 1st Sess.

That the expenditure of any sums from this appropriation for investigations of any nature requested by States, municipalities, or other interests shall be upon the basis of the State, municipality, or other interest advancing at least 50 percent of the estimated cost of such investigations. . . .

MR. [J. EDGAR] CHENOWETH [of Colorado]: Mr. Chairman, a point of order.

THE CHAIRMAN:[2] The gentleman will state it.

MR. CHENOWETH: Mr. Chairman, I make a point of order against the language contained in line 13 beginning with the word *"Provided"* down through line 18 to the colon, page 34, for the reason it is legislation on an appropriation bill.

THE CHAIRMAN: Does the gentleman from Ohio [Mr. Jones] desire to be heard on the point of order? The point of order is that this is legislation on an appropriation bill, not authorized by law.

MR. [ROBERT F.] JONES of Ohio: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The point of order is conceded. The Chair therefore sustains the point of order.

Requiring Cost Sharing for Cooperative Range Improvements

§ 48.6 Language in an appropriation bill providing that no part of the appropriation for "Cooperative Range Improvements" shall be expended in any national forest until contributions at least equal to such expenditures are made available by States or other local public or private sources, was held to be legislation on an appropriation bill and not in order.

On May 10, 1951,[3] during consideration in the Committee of the Whole of the Agriculture Department appropriation bill (H.R. 3973), the following point of order was raised:

MR. [WALTER K.] GRANGER [of Utah]: Mr. Chairman, I make a point of order against the following language beginning in line 18 on page 26 and including the proviso in lines 18 to 25 inclusive as being legislation on an appropriation bill.

Provided, That hereafter no part of the appropriation for "Cooperative Range Improvements" shall be expended in any national forest until funds or other contributions at least equal to such expenditures are made available by States or other local public or private sources, except that claims recognized by the act of December 19, 1950, shall be accepted as contributions for the purposes of this section.

MR. [JAMIE L.] WHITTEN [of Mississippi]: A point of order, Mr. Chairman.

THE CHAIRMAN:[4] The gentleman will state it.

MR. WHITTEN: In view of the fact that a point of order has been made to

2. Earl C. Michener (Mich.).

3. 97 CONG. REC. 5224, 82d Cong. 1st Sess.

4. Aime J. Forand (R.I.).

the last half of the paragraph I make a point of order against the entire paragraph. I do not think it can be argued that it is not subject to a point of order. A point of order having been made to half of the paragraph, I make a point of order against the entire paragraph.

THE CHAIRMAN: Does any Member desire to be heard on the point of order?

The Chair sustains the point of order to the entire paragraph.

Providing Cost Sharing for Road Construction

§ 48.7 Language in an appropriation bill providing that funds for the construction of an additional Washington airport in Virginia shall be available for an access road (a federal project) provided the State of Virginia makes available the balance of funds necessary for the construction of the road was conceded to be legislation and held not in order.

On June 29, 1959,[5] during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 7978), a point of order was raised against the following provision:

The Clerk read as follows:

FEDERAL AVIATION AGENCY

Construction and development, additional Washington airport

For an additional amount for "Construction and development, additional Washington airport", $22,470,000, to remain available until expended, of which not to exceed $400,000 shall be available for an access road to the north from the airport provided the State of Virginia makes available the balance of funds necessary for the construction of said road.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I make a point of order against the language of the bill on page 3, line 6, beginning with the words "of which" and running through line 10, on the ground that this language is legislation on an appropriation bill.

THE CHAIRMAN:[6] Does the gentleman from Texas [Mr. Thomas] desire to be heard on the point of order?

MR. [ALBERT] THOMAS: Mr. Chairman, I am compelled to concede the point of order.

THE CHAIRMAN: The gentleman from Texas concedes the point of order. The Chair sustains the point of order.

Delaying Obligation Until Other Funds Have Been Spent

§ 48.8 To a general appropriation bill providing funds for the rent-supplement program, an amendment to withhold obligation of those funds until funds previously

5. 105 CONG. REC. 12121, 86th Cong. 1st Sess.

6. Paul J. Kilday (Tex.).

appropriated (in another bill) for military housing construction are obligated, which placed an unrelated contingency on the use of funds in the bill, was ruled out as legislation.

On Mar. 29, 1966,[7] during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 14012), a point of order was raised against the following provision:

Amendment offered by Mr. [Elford A.] Cederberg [of Michigan]: On page 4, line 22, after "program" and before the period add, "*Provided further,* That no part of these funds shall be obligated until funds made available for the construction of family housing for the Army, Navy, Marine Corps, Air Force, and Defense agencies in Public Law 89–202, have been obligated."

MR. [JOSEPH L.] EVINS of Tennessee: Mr. Chairman, I make a point of order.

MR. [MELVIN R.] LAIRD [of Wisconsin]: Mr. Chairman, the point of order comes too late. The Chair was about to state the question.

THE CHAIRMAN [James G. O'Hara, of Michigan]: The question had not yet been put. The Chair was about to state the question, but the question had not yet been put. The gentleman will state his point of order.

MR. EVINS of Tennessee: Mr. Chairman, I make a point of order against the amendment on the ground that it relates to funds previously appropriated and which are not carried in this bill and interferes with executive discretion given to the President under existing law to do what he wishes with the funds.

THE CHAIRMAN: The Chair is prepared to rule.

MR. CEDERBERG: Mr. Chairman, I would like to be heard on this point.

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

MR. CEDERBERG: Mr. Chairman, this is an attempt to try to be sure that our military families are given an equal opportunity to have family housing that has been deferred. This matter has adequately been discussed in the debate previous to this time. I had hoped possibly out of the generousness of the hearts of the gentlemen on the Democratic side that they would not raise a point of order and therefore obviously deny our military service families the right to have these houses that they so desperately need.

THE CHAIRMAN: The Chair is prepared to rule on the point of order.

The amendment offered by the gentleman from Michigan places an unrelated contingency upon the use of funds provided in this paragraph, and as such is legislation in an appropriation bill, and not germane to the paragraph.

The point of order is sustained.

Parliamentarian's Note: Provisions that seek to control the timing of expenditure of funds may sometimes be ruled out as legislation, inasmuch as such provisions may interfere with executive discretion as to such expenditure.

7. 112 CONG. REC. 7118, 89th Cong. 2d Sess.

See the proceedings at 126 CONG. REC. 16815–17, 96th Cong. 2d Sess., June 25, 1980; for discussion of provisions affecting executive discretion generally, see § 51, infra. More precisely, it may be stated that, if a proposed limitation on the use of funds goes beyond the traditionally permissible objects of a limitation, as, for example, by restricting discretion in the timing of expenditure of funds rather than restricting their use for a specific object or purpose, such provision may be ruled out as legislation in the absence of a convincing argument by the proponent showing that the provision does not change existing law.

In some instances, a provision of the type described above may be allowed, even though legislative in effect, if it can be viewed as falling within the Holman rule exception. See § 4, supra, for general discussion of the Holman rule. As long as an amendment calls for an obvious reduction at some point in time during the fiscal year, the amendment is in order under the "Holman Rule" even if the reduction takes place in the future in an amount actually determined when the reduction takes place (for example, by formula). See, for example, 126 CONG. REC. 20499–503, 96th Cong. 2d Sess., July 30, 1980.

It should be noted here that on one occasion, in 1965, language in a supplemental appropriation bill providing funds for the rent supplement program and specifying that "no part of the . . . appropriation or contract authority shall be used" in any project not part of a "workable program for community improvement" (as defined in the Housing Act of 1949) or which is without local official approval was held to be a proper limitation and in order. The 1965 ruling would probably not be followed in current practice; that ruling is discussed further, with related precedents, in the "note on contrary rulings" following § 53.6, infra.

Funds Available to Extent Aggregate Expenditures Do Not Exceed Specified Amount

§ 48.9 On a general appropriation bill a limitation applying to funds other than those provided in the pending bill is not in order. But rulings differ in the application of this principle to provisions making funds available "only to the extent that expenditure thereof shall not raise total aggregate expenditures of" agencies provided for in the bill.

On Mar. 3, 1952,[8] during consideration in the Committee of the Whole of the Treasury and Post Office Departments appropriation bill (H.R. 6854), the Chair ruled out of order an amendment as described above, on the basis that the proposed limitation would affect appropriations not carried in the bill. A point of order was raised against the following amendment:

The Clerk read as follows:

Amendment offered by Mr. [Frederic R.] Coudert [Jr., of New York]: Page 15, line 11 insert a new section 403:

"Sec. 403. Money appropriated in this act shall be available for expenditure in the fiscal year ending June 30, 1953, only to the extent that expenditure thereof shall not raise total aggregate expenditures of all agencies provided for herein beyond the total sum of $7,060,000,000: *Provided further,* That this limitation shall not apply to expenditures from the postal revenues; to refunds of internal revenue collections, to refunds and drawbacks in the Customs Service, and to refunds of moneys erroneously received and covered."

MR. [J. VAUGHAN] GARY [of Virginia]: Mr. Chairman, I reserve a point of order against the amendment. . . .

Mr. Chairman, I insist on my point of order on the ground that this amendment goes beyond the scope of this bill and deals with expenditures which are not included in this bill.

MR. [JOHN] TABER [of New York]: Mr. Chairman, may I be heard on the point of order?

THE CHAIRMAN:[9] The gentleman from New York is recognized.

MR. TABER: Mr. Chairman, the amendment does not go beyond the scope of the bill in its limitation on expenditures. The limitation is that the total expended including the amounts in this bill shall not exceed the $7,060,000,000 over and above the total expenditures for the postal revenues, the refunds on internal revenue collection, and the refunds and drawbacks in the customs service, and the refunds of money erroneously received. . . .

THE CHAIRMAN: The Chair is ready to rule. In the brief time the Chair has had to study the amendment, the Chair is of the opinion that the limitation which the gentleman from New York desires to place in the bill would operate to limit expenditures of appropriations which are not carried in the bill, and therefore sustains the point of order.

A seemingly different result was reached on Mar. 21, 1952,[10] on which day the Committee of the Whole was considering H.R. 7072, an independent offices appropria-

8. 98 CONG. REC. 1781, 1782, 82d Cong. 2d Sess. See also § 27, supra, discussing provisions that affect funds in other acts, generally.

9. Charles M. Price (Ill.).

10. 98 CONG. REC. 2694, 82d Cong. 2d Sess. See also the ruling at 99 CONG. REC. 9559, 83d Cong. 1st Sess., July 22, 1953, on a similarly worded amendment to H.R. 6391, the Mutual Security Administration appropriation bill, discussed at § 80.2, infra. And see §§ 80.3 et seq., infra.

tion. The Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. Coudert: On page 64, after line 21, add a new section 405 as follows:

"Sec. 405. Money appropriated in this act shall be available for expenditure in the fiscal year ending June 30, 1953, only to the extent that expenditure thereof shall not result in total aggregate expenditures of all agencies provided for herein beyond the total sum of $6,900,000,000."

MR. [ALBERT] THOMAS [of Texas]: Mr. Chairman, I make the point of order against the amendment on the ground that it is legislation on an appropriation bill. . . .

. . . It changes figures heretofore voted upon in the House in the last 3 days. Therefore, that is legislation. It puts duties on the various agencies not otherwise called for in the bill. . . .

MR. COUDERT: This clearly does not touch the funds of prior years; therefore, it does not appropriate with respect to them. It only places a limitation upon the use to which the funds requested in this bill, the new obligational authority, may be put. It limits the freedom of expenditure and nothing else.

THE CHAIRMAN:[11] The Chair is ready to rule. . . .

The Chair appreciates the fact that the author of the amendment afforded the Chair an opportunity earlier in the day to read the amendment and gave the Chair some time to study the language of the amendment.

The Chair is of the opinion that the amendment is a limitation upon the funds which are contained in the bill H.R. 7072, presently before the Committee; that it is nothing more than a limitation on those funds. The Chair is, therefore, constrained to overrule the point of order and holds the amendment in order.

Parliamentarian's Note: The Mar. 3, 1952, ruling cited above seems to support the better principle, that, where an attempted limitation has the effect of delaying the expenditure of funds until determinations are made as to aggregate expenditures at the end of a fiscal year, it is not in order. However, if the reduction is certain, such an amendment can be supported under the Holman rule. See the note in § 48.8, supra. And see §§ 4 and 5, supra, for general discussion of the Holman rule.

Ceiling by Reference to President's Budget

§ 48.10 An amendment to a general appropriation bill restricting the availability for expenditure of all funds therein to the aggregate level provided in the President's budget for that fiscal year for the agencies covered in the bill was held to constitute a valid limitation on the total amount covered by the bill.

11. Wilbur D. Mills (Ark.).

On June 15, 1972,[12] during consideration in the Committee of the Whole of the Departments of Labor and Health, Education, and Welfare appropriation bill for fiscal 1973 (H.R. 15417), a point of order was raised against the following amendment:

MR. [PAUL] FINDLEY [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Findley: On page 40, after line 4, insert the following new section:

"Sec. 409. Money appropriated in this Act shall be available for expenditure in the fiscal year ending June 30, 1973, only to the extent that expenditure thereof shall not result in total aggregate net expenditures of all agencies provided for herein beyond 100 per centum of the total aggregate net expenditures estimated therefor in the budget for 1973 (H. Doc. 215)."

MR. [DANIEL J.] FLOOD [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment.

Mr. Chairman, this is legislation upon an appropriation bill—period.

THE CHAIRMAN:[13] Does the gentleman from Illinois desire to be heard on the point of order?

MR. FINDLEY: Yes, Mr. Chairman.

Mr. Chairman, I would like to explain to the Chair that the language of this amendment with the exception of the percentage figure and the House document reference is identical to the so-called Bow amendment which was offered on many occasions in past years and which has been challenged on previous occasions and which has been sustained being in order of an appropriation bill.

THE CHAIRMAN: The Chair has examined the amendment and will rule that it is in order. It is, in effect, the "Bow" amendment with a very slight variation. It is a restriction on the appropriations in this bill.

The point of order is overruled.

Parliamentarian's Note: This precedent and the Mar. 21, 1952, ruling cited in § 48.9, supra, are subject to the same criticism. Arguably, implementation of this amendment would require withholding of all obligations until the end of the year, since an agency's budget situation might not be subject to a final tabulation until all other funds—those in the pipeline as well as those funded in other appropriation acts—are taken into account. There is no disclosure on the face of the amendment that there is a certain reduction to qualify under the Holman rule exception.

Pending Balanced Budget

§ 48.11 To a bill making appropriations for foreign aid, an amendment specifying that no funds made available therein may be expended until total governmental tax receipts exceed total expend-

12. 118 CONG. REC. 21136, 21137, 92d Cong. 2d Sess.

13. Chet Holifield (Calif.).

itures was ruled out as legislation.

On July 1, 1964,[14] during consideration in the Committee of the Whole of the foreign aid appropriation bill (H.R. 11812), a point of order was raised against the following amendment:

MR. [EDGAR F.] FOREMAN [of New Mexico]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Foreman: On page 18, immediately after line 24, insert the following:

"Sec. 404. Limitation on Appropriations for Economic Assistance.—Notwithstanding any provision of this or any other Act, no provision of this Act appropriating funds to carry out any program of assistance under this Act (other than a provision for military assistance as described in this Act and in the amount of $1,055,000,000) shall become effective until the tax receipts of the United States Government for the preceding fiscal year are equal to or greater than the expenditures of the Government for such fiscal year."

MR. [J. VAUGHAN] GARY [of Virginia]: Mr. Chairman, I make a point of order against the bill on the ground that it is legislation on an appropriation bill. . . .

MR. FOREMAN: Mr. Chairman, I feel like any time we are appropriating the taxpayers' dollars, we certainly should take into consideration the question as to whether or not we are putting the people further in debt. This is a very important question. It is a legal question, a legislative question, and even more importantly, a moral question.

Mr. Chairman, my amendment goes to the question of spending or not spending of these funds, the limiting of making funds available.

It does not legislate as to how they are going to be spent, or not be spent, the bill itself does not even do that.

But as suggested earlier in our debate, perhaps this amendment is indeed too sensible and entirely too practical to be applied to our foreign aid giveaway program. Yes, Mr. Chairman, perhaps fiscal responsibility, at this point and in this day in time, may be out of order.

THE CHAIRMAN:[15] The Chair is ready to rule.

On the face of it, this amendment appears to go far beyond the scope of the bill.

The subject of the amendment is not covered or referred to in the proposed legislation and, therefore, the Chair sustains the point of order.

§ 49. Spending Conditioned on Congressional Approval

Subsequent Congressional Finding of Impact on Public Debt

§ 49.1 To a bill appropriating funds for the Mutual Secu-

14. 110 CONG. REC. 15582, 88th Cong. 2d Sess. See also § 49.1, infra, in which the Chair ruled out of order an amendment making the availability of funds conditional on a congressional finding that expenditures would not increase the public debt.

15. Charles M. Price (Ill.).