

On June 15, 1972,⁽¹³⁾ during consideration in the Committee of the Whole of the Departments of Labor, and Health, Education, and Welfare appropriation bill (H.R. 15417), a point of order was raised against the following amendment:

MR. [ANDREW] JACOBS [Jr., of Indiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jacobs: On page 40, after line 4, insert:

“Sec. 409. No part of the funds appropriated by this Act shall be used to purchase goods or services from a supplier which compensates any officer or employee at a rate in excess of level II of the Executive Schedule under section 5313 of title 5, United States Code.”

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

THE CHAIRMAN:⁽¹⁴⁾ The gentleman will state his point of order.

MR. FLOOD: Mr. Chairman, again I am referring to Cannon's Procedure of the House of Representatives, and I am referring to pages 69 and 70, under the heading, “Construed as legislation and not limitations and therefore not admitted”.

I go on to read:

Provision that no part of an appropriation should be used except in a certain way, thereby restricting executive discretion to the extent of imposing new duties.

13. 118 CONG. REC. 21136, 92d Cong. 2d Sess.

14. Chet Holifield (Calif.).

Now, this is clearly what is being attempted in this amendment.

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

MR. JACOBS: Mr. Chairman, only to say that I think this is clearly a limitation on an appropriation bill, and there have been many occasions where appropriations cannot be used to make purchases with corporations where certain activities are carried on by the corporation.

I have nothing further to say.

THE CHAIRMAN: The Chair is ready to rule.

The Chair is aware of the precedent cited by the gentleman from Pennsylvania, but under the language as it is written in the amendment offered by the gentleman from Indiana it is a negative restriction, and therefore the Chair rules that the amendment is in order.

§ 55. President's Authority

Grant of New Discretionary Authority

§ 55.1 Language in a general appropriation bill which authorizes the President to determine amounts of funds to be available in the administration of a program, although such funds are required to be distributed by application of an allotment formula in existing law, confers on the President a dis-

cretionary authority to make determinations in contravention of that law, and is therefore legislation on an appropriation bill and subject to a point of order.

On Feb. 19, 1970,⁽¹⁵⁾ during consideration in the Committee of the Whole of the Departments of Labor, and Health, Education, and Welfare appropriation bill (H.R. 15931), the following point of order was raised:

THE CHAIRMAN:⁽¹⁶⁾ Are there any points of order?

MR. [JAMES G.] O'HARA [of Michigan]: Mr. Chairman, I rise to make a point of order against the language contained in section 411, beginning on line 12, through line 20 on page 61, which reads as follows:

Sec. 411. In the administration of any program provided for in this Act, as to which the allocation, grant, apportionment, or other distribution of funds among recipients is required to be determined by application of a formula involving the amount appropriated or otherwise made available for distribution, the amount available for expenditure or obligation (as determined by the President) shall be substituted for the amount appropriated or otherwise made available in the application of the formula.

Mr. Chairman, I make the point of order on the ground that the section in question constitutes legislation on an appropriation bill and does not come within the exception.

15. 116 CONG. REC. 4019, 91st Cong. 2d Sess.

16. Chet Holifield (Calif.).

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

MR. [DANIEL J.] FLOOD [of Pennsylvania]: Mr. Chairman, the language is patently legislation on an appropriation bill. I concede the point of order.

THE CHAIRMAN: The gentleman from Pennsylvania concedes the point of order, and the Chair sustains the point of order.

Affirmative Directive

§ 55.2 A provision in a general appropriation bill directing the President to "assure that no contribution to the United Nations Development Program authorized by the Foreign Assistance Act of 1961 . . . shall be used for projects for economic or technical assistance to the Government of Cuba, so long as Cuba is governed by the Castro regime," was ruled out as legislation [constituting a directive to the President and not confined to the funds carried in the bill].

On June 4, 1970,⁽¹⁷⁾ during consideration in the Committee of the Whole of the foreign assistance appropriation bill (H.R. 17867), a

17. 116 CONG. REC. 18395, 18396, 91st Cong. 2d Sess.

point of order was raised against the following provision:

Technical assistance: For necessary expenses as authorized by law \$310,000,000, distributed as follows:

(1) World-wide, \$151,000,000 (section 212);

(2) Alliance for Progress, \$75,000,000 (section 252(a)); and

(3) Multilateral organizations, \$85,000,000 (section 302(a)), of which not less than \$13,000,000 shall be available only for the United Nations Children's Fund: *Provided*, That no part of this appropriation shall be used to initiate any project or activity which has not been justified to the Congress, except projects or activities relating to the reduction of population growth; *Provided further*, That the President shall seek to assure that no contribution to the United Nations Development Program authorized by the Foreign Assistance Act of 1961, as amended, shall be used for projects for economic or technical assistance to the Government of Cuba, so long as Cuba is governed by the Castro regime. . . .

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, a point of order.

THE CHAIRMAN:⁽¹⁸⁾ . . . The Chair will hear the gentleman from Wisconsin on his point of order.

MR. ZABLOCKI: Mr. Chairman, I make the point of order that the entire proviso beginning on line 20 and ending on line 25 of page 2 is legislation in an appropriation. I am for its objectives, but in effect it simply says that the President should try to enforce existing law. The provisions in existing

law, section 620 of the Foreign Assistance Act are stronger and there is no sense in this useless repetition in an appropriation.

Mr. Chairman, I make the point of order that this is legislation on an appropriation bill.

THE CHAIRMAN: Does the gentleman from Louisiana wish to be heard on the point of order?

MR. [OTTO E.] PASSMAN [of Louisiana]: Yes, sir, Mr. Chairman. The proviso was added by the Committee on Appropriations in the foreign assistance appropriation bill for fiscal year 1965 in order to insure that no U.S. contribution to the UNDP would be used to give any type of economical or technical assistance to Cuba as long as Cuba is governed by the Castro regime.

I would like to interpret this as a limitation on an appropriation bill and ask for a ruling.

THE CHAIRMAN: The language in question is as follows: Line 20, page 2:

Provided further, That the President shall seek to assure . . .

And so forth.

That is obviously a directive to the President of the United States, it is not limited in application to the funds appropriated in this bill or any section thereof, and the Chair sustains the point of order.

Limiting President's Legal Authority

§ 55.3 Where existing law gives the President discretionary authority to furnish and allocate foreign military assist-

18. Hale Boggs (La.).

ance, subject to the authorization levels contained therein, it is not in order in a general appropriation bill to include language which would limit the President's authority to allocate excess defense articles to 120 percent of amounts justified to Congress for any country.

On June 4, 1970,⁽¹⁹⁾ during consideration in the Committee of the Whole of the foreign assistance appropriation bill (H.R. 17867), the following paragraph was read:

Military assistance: For expenses authorized by section 504(a) of the Foreign Assistance Act of 1961, as amended, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, \$350,000,000: *Provided*, That none of the funds contained in this paragraph shall be available for the purchase of new automotive vehicles outside of the United States . . . *Provided further*, That the military assistance program for any country shall not be increased beyond twenty per centum of the amount justified to the Congress, unless the President determines that an increase in such program is essential to the national interest of the United States and reports each such determination to the House of Representatives and the Senate within thirty days after each such determination: *Provided further*, That the Excess Defense

Articles program for any country shall not be increased beyond twenty per centum of the amount presented to the Congress.

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, I make a point of order against the proviso on lines 16 through 19. This is clearly legislation in an appropriation and is not a proper appropriation limitation. It attempts to provide that excess defense articles programs may be increased up to 20 percent for any country beyond the amounts presented to the Congress.

As I stated earlier, Mr. Chairman, it is not my intention to go into the substance of the proviso since this language is not in the authorization act. I do want to point out, however, that this proviso particularly is not in the interest of our national security nor is it in the interest of our economic well-being.

Therefore, Mr. Chairman, I want to renew my point of order that this is legislation in an appropriation bill. . . .

THE CHAIRMAN:⁽²⁰⁾ The Chair is prepared to rule.

The gentleman from Wisconsin has raised a point of order against the language appearing on page 6 of the bill, lines 16 through 19, relating to excess defense articles, on the ground that the proviso is in the nature of legislation on an appropriation bill in violation of rule XXI, clause 2.

The Chair has examined the Foreign Assistance Act of 1961, as amended. Section 503 of that act bestows authority for military assistance and gives the President wide discretion in the

19. 116 CONG. REC. 18400, 18401, 91st Cong. 2d Sess.

20. Hale Boggs (La.).

furnishing and allotment of such assistance, subject of course to the general authorization levels set in section 504. The Chair is of the opinion that the proviso to which the point of order is directed places a limitation upon that Executive discretion as contained in the basic act and is therefore legislation on an appropriation bill that is not in order under the rule.

The Chair therefore sustains the point of order.

Requiring Detailed Annual Report

§ 55.4 Language in a general appropriation bill requiring the President to report to Congress at least semiannually on certain expenditures of funds under the bill, and detailing the type of justification the President must make in that report, was held to impose new affirmative duties on the President and was ruled out on a point of order.

On June 4, 1970,⁽¹⁾ 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 provisions:

The Clerk read as follows:

Sec. 108. Any expenditure made from funds provided in this title for

1. 116 CONG. REC. 18405, 91st Cong. 2d Sess.

procurement outside the United States of any commodity in bulk and in excess of \$100,000 shall be reported to the Senate and House of Representatives at least twice annually: *Provided*, That each such report shall state the reasons for which the President determined, pursuant to criteria set forth in section 604(a) of the Foreign Assistance Act of 1961, as amended, that foreign procurement will not result in adverse effects upon the economy of the United States or the industrial mobilization base which outweigh the economic or other advantages to the United States of less costly procurement outside the United States.

MR. [E. ROSS] ADAIR [of Indiana]: Mr. Chairman, I make a point of order against section 108.

THE CHAIRMAN:⁽²⁾ The gentleman will state it.

MR. ADAIR: This is legislation in an appropriation bill. It requires a report to the Congress of all procurements of more than \$100,000 made outside of the United States and prescribes the type of justification that the President must give. Thus, in my opinion, it is clearly legislation.

Furthermore, Mr. Chairman, to answer a point that has been made earlier by the gentleman from Ohio, this same general subject matter is in existing law in section 604 of the Foreign Assistance Act, where again, in my opinion, it is set forth more fully and effectively.

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

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, we ask for a ruling.

2. Hale Boggs (La.).

THE CHAIRMAN: The Chair is prepared to rule. The language in question, the significant part of it, section 108:

Any expenditure made from funds provided in this title for procurement outside the United States of any commodity in bulk and in excess of \$100,000 shall be reported to the Senate and the House of Representatives at least twice annually:

That, obviously, is an imposition of new duties upon the Executive and it clearly falls within the prohibition of section XXI, clause 2.

Therefore, the Chair sustains the point of order.

Imposing Duties as Condition Precedent to Funding

§ 55.5 To a general appropriation bill containing funds for foreign assistance, an amendment restricting the availability of funds therein for certain countries until the President reports to Congress his determination that such country does not deny or impose more than nominal restrictions on the right of its citizens to emigrate was held to impose additional duties on the President and was ruled out as legislation in violation of Rule XXI clause 2.

On Dec. 11, 1973,⁽³⁾ during consideration in the Committee of the

3. 119 CONG. REC. 40871, 93d Cong. 1st Sess.

Whole of the Foreign Assistance Appropriation Act (H.R. 11771), a point of order was raised against the following amendment:

MR. [RICHARD H.] ICHORD [of Missouri]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ichord: Page 18, line 10, strike out the period and insert in lieu thereof the following: “; except that no funds shall be obligated or expended under this paragraph, directly or indirectly, for the use or benefit of any non-market economy country (other than any such country whose products are eligible for column 1 tariff treatment on the date of the enactment of this Act) until the President makes a report to the Congress on his determination that such country does not (1) deny its citizens the right or opportunity to emigrate; (2) impose more than a nominal tax on emigration or on the visas or other documents required for emigration, for any purpose or cause whatsoever; or (3) impose more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice.”

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, I make a point of order against the amendment in that it requires a Presidential determination and is legislation on an appropriation bill.

THE CHAIRMAN:⁽⁴⁾ Does the gentleman from Missouri wish to be heard on the point of order?

MR. ICHORD: I do, Mr. Chairman.

Mr. Chairman, I would hope that the gentleman from Louisiana would with-

4. Charles M. Price (Ill.).

draw his point of order, because the amendment which I offer is exactly the Vanik amendment which has been adopted by the House by a vote of 4 to 1.

Mr. Chairman, I submit that the amendment is in order, and I refer the Chair to Hinds' Precedents, section 3942. An amendment which was submitted to an appropriation bill, to an agricultural appropriation bill, provided that no part of the appropriation shall be available for the agricultural college of Utah until the Secretary of Agriculture shall be satisfied and shall so certify to the Secretary of the Treasury that no trustee, officer, instructor, and so forth, is engaged in the practice of polygamy.

That required a certification by the Secretary of Agriculture, Mr. Chairman. This requires a certification by the President that certain nations do not deny the rights of immigration to their citizens. It is a certification and report on the basis of that precedent, and I submit, Mr. Chairman, that the amendment is in order. If not, I have another amendment at the desk which will be in order, on trade to Russia. . . .

THE CHAIRMAN: The Chair is ready to rule. The amendment requires the President to make a report to the Congress on his determination that a certain country does not deny its citizens the right or opportunity to emigrate, impose more than a nominal tax on emigration, and certain other factors.

This evidently places additional duties upon the President and requires new determinations. A similar amendment was ruled out as legislation when the foreign aid appropriation bill was

considered in 1972. The Chair holds that the amendment is legislation on an appropriation bill and sustains the point of order.

Parliamentarian's Note: This ruling is another indication, similar to the ruling in § 52.2, supra, that the precedent cited in 4 Hinds' Precedents § 3942 has been overruled.

Imposing Presidential Determination of Military Procurement Policies

§ 55.6 A provision in a foreign aid appropriation bill requiring the President to consider a recipient country's military procurement policies before furnishing assistance under that act or under the Agricultural Trade Development and Assistance Act was held to require additional duties on the part of the President and was ruled out on a point of order.

On June 4, 1970,⁽⁵⁾ 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:

Sec. 120. (a) In order to restrain arms races and proliferation of so-

5. 116 CONG. REC. 18408, 18409, 91st Cong. 2d Sess.

phisticated weapons, and to insure that resources intended for economic development are not diverted to military purposes, the President shall take into account before furnishing development loans, Alliance loans, or supporting assistance to any country under this Act, and before making sales under the Agricultural Trade Development and Assistance Act of 1954, as amended:

(1) the percentage of the recipient or purchasing country's budget which is devoted to military purposes;

(2) the degree to which the recipient or purchasing country is using its foreign exchange resources to acquire military equipment; and

(3) the amount spent by the recipient or purchasing country for the purchase of sophisticated weapons systems, such as missile systems and jet aircraft for military purposes, from any country.

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, I make a point of order against section 120. It clearly constitutes detailed legislative provisions in an appropriation. Furthermore, in essence and detail, its language is already in existing law—section 620(s) of the Foreign Assistance Act. . . .

THE CHAIRMAN:⁽⁶⁾ . . . Does the gentleman from Louisiana care to be heard on the point of order?

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, I ask for a ruling.

THE CHAIRMAN: The Chair is prepared to rule.

Again a careful reading will show that the President is directed to take into account various considerations, all of which constitute legislation on an appropriation bill.

6. Hale Boggs (La.).

Therefore, the Chair sustains the point of order.

Presidential Determination of Soviet Troop Reductions

§ 55.7 To an amendment to the Department of Defense appropriation bill, prohibiting the use of funds in that act in excess of a specified amount for support of U.S. Armed Forces in Europe, an amendment providing that the limitation shall cease to apply if the President determines that the Soviet Union has not made comparable withdrawals of forces from the Mideast following the reduction of U.S. troop strength in Europe was held to impose additional affirmative duties upon the President and was ruled out in violation of Rule XXI clause 2.

On Oct. 8, 1970,⁽⁷⁾ during consideration in the Committee of the Whole of the Defense Department appropriation bill (H.R. 19590), a point of order was raised against the following amendment:

MR. [EDWARD G.] BIESTER [Jr., of Pennsylvania]: Mr. Chairman, I offer an amendment.

7. 116 CONG. REC. 35822, 35826, 91st Cong. 2d Sess.

The Clerk read as follows:

Amendment offered by Mr. Biester: on page 45, line 5, insert the following new section and renumber succeeding sections:

"Sec. 844. After June 1, 1971, no part of the funds appropriated in this Act shall be expended for the support of United States Armed Forces assigned to the United States European Command in excess of 270,000 members." . . .

MR. [JONATHAN B.] BINGHAM [of New York]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Bingham to the amendment offered by Mr. Biester: Delete the period at the end of the sentence and insert: "except that this limitation shall not apply if the President shall determine, after the United States Armed Forces assigned to the United States European Command have been reduced to the level of 290,000, that the Soviet Union has made no comparable withdrawal of forces from the countries of Eastern Europe to the territory of the Soviet Union itself."

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I make a point of order against the amendment on the ground that it requires a determination on the part of the President.

THE CHAIRMAN PRO TEMPORE:⁽⁸⁾ The Chair has read the amendment and is of the opinion that it does require determinations and additional duties on the part of the President and, therefore, the Chair sustains the point of order.

8. Charles M. Price (Ill.).

Presidential Certification Following Investigation of British Aid to Arab League

§ 55.8 To the foreign aid appropriation bill, an amendment providing that no part of the funds shall be paid to Great Britain until the President, after investigation, certifies that Great Britain is not selling war material to the Arab League was held to be legislation on an appropriation bill and therefore not in order.

On June 4, 1948,⁽⁹⁾ during consideration in the Committee of the Whole of the foreign aid appropriation bill (H.R. 6801), a point of order was raised against the following amendment:

MR. [WALTER A.] LYNCH [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lynch: Strike out the period on line 16, page 3, after the figures 1948 and insert a colon and add the following words: "*And provided further,* That no part of the funds appropriated herein shall be paid over or transferred or placed to the credit of, or otherwise made available, directly or indirectly to Great Britain until the President of the United States, after investigation, certifies that he is of the opinion that Great Britain is not selling,

9. 94 CONG. REC. 7207, 7208, 80th Cong. 2d Sess.

leasing, lending, or making otherwise available war material to any member of the Arab League, and that he further certifies that Great Britain has given to the United States Government satisfactory assurance that it will not thereafter sell, lease, lend, or make otherwise available war material to any member of the Arab League, which will or may be used to render inoperative the recommendation of the United Nations General Assembly for the partition of Palestine made on November 29, 1947."

MR. [JOHN] TABER [of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN:⁽¹⁰⁾ The gentleman will state it.

MR. TABER: Mr. Chairman, this is legislation on an appropriation bill and requires additional duties of officials of the United States. . . .

THE CHAIRMAN: The amendment offered by the gentleman from New York contains a limitation upon an appropriation bill and also embodies legislation; therefore the Chair sustains the point of order.

Requiring Presidential Proclamation of Foreign Aggression

§ 55.9 To a bill making appropriations for foreign aid, an amendment providing that all sums granted or used under the Act shall be reduced by any and all sums granted where such country is engaged in acts of aggression as determined by proclamation of the President or

10. W. Sterling Cole (N.Y.).

by the United Nations, was held to be legislation on an appropriation bill and therefore not in order.

On June 4, 1948,⁽¹¹⁾ during consideration in the Committee of the Whole of the foreign aid appropriation bill (H.R. 6801), a point of order was raised against the following amendment:

MR. [ABRAHAM J.] MULTER [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Multer: On page 3, line 16, after "1948" insert "*And provided further, That all sums granted, lent or used to or for any country under this act shall be reduced by any and all sums granted, lent or used directly or indirectly by or for such country to or for the account or benefit of any country, State, or people engaged directly or indirectly in acts of aggression as determined by proclamation of the President of the United States of America or by the United Nations.*"

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order that this is legislation on an appropriation bill, and requires additional duties of officers of the United States. . . .

THE CHAIRMAN:⁽¹²⁾ The Chair is ready to rule.

In the opinion of the Chair, the amendment offered by the gentleman from New York contains legislation

11. 94 CONG. REC. 7209, 80th Cong. 2d Sess.

12. W. Sterling Cole (N.Y.).

and, therefore, is subject to a point of order. The Chair sustains the point of order.

No Funds for Nations Proclaimed to be Aggressors as Determined by President

§ 55.10 To a bill making appropriations for foreign aid, an amendment providing that no part be paid to any country which the President proclaims to be an aggressor or a participant in an aggression was conceded to be subject to a point of order as legislation.

On June 4, 1948,⁽¹³⁾ the Committee of the Whole was considering H.R. 6801, a bill making appropriations for foreign aid. The Clerk read as follows:

Be it enacted, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign aid for the period beginning April 3, 1948, and ending June 30, 1949, and for other purposes, namely: . . .

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Celler: Page 1, line 6, after the word "purposes", strike out the comma and the word "namely" and insert "on condi-

tion, however, that no moneys authorized for appropriation hereunder shall be paid or credited to any country which participates in or aids in acts of aggression, such acts of aggression to be determined by proclamation by the President of the United States, namely."

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the amendment that it is legislation on an appropriation bill and that it is not in order at this point in the bill and not germane.

THE CHAIRMAN:⁽¹⁴⁾ Does the gentleman from New York desire to be heard on the point of order?

MR. CELLER: I agree to the point of order, Mr. Chairman.

THE CHAIRMAN: The point of order is sustained.

New Discretionary Authority Bestowed on President

§ 55.11 To a supplemental appropriation bill for defense aid to foreign governments, an amendment prohibiting expenditure of such appropriation unless such government transfer collateral security deemed by the President to be satisfactory, was held to be legislation.

On Mar. 19, 1941,⁽¹⁵⁾ the following proceedings took place:

Amendment offered by Mr. [John M.] Vorys of Ohio: On page 4, between

14. W. Sterling Cole (N.Y.).

15. 87 CONG. REC. 2376, 77th Cong. 1st Sess.

13. 94 CONG. REC. 7189, 7190, 80th Cong. 2d Sess.

lines 15 and 16, insert a new section, as follows:

"Sec. 4. No part of any appropriation made by this act shall be used to procure defense articles for any foreign government which has not made arrangements, prior to receiving such articles, in order to protect the economic and financial interest of the United States, to reimburse the United States for the cost of such defense articles, or to guarantee such reimbursement by transferring, or causing to be transferred, to the United States property deemed by the President to be satisfactory collateral security for such reimbursement, insofar as the President shall find that such government has property available for such purpose."

MR. [CLIFTON A.] WOODRUM of Virginia: Mr. Chairman, I make the point of order against the amendment that it is not a limitation. It is phrased, generally speaking, as a limitation, but on careful analysis the Chair will see it is not a limitation in that it is not a complete negative, and to be a limitation it must be a complete negative. . . .

THE CHAIRMAN:⁽¹⁶⁾ The gentleman from Ohio has offered an amendment as a new section to the bill. The amendment is in the form of a limitation, but in the opinion of the Chair, in essence, it clearly is legislative in its character. It is not sufficient for an amendment to be in the form of a limitation. In view of the fact that the amendment as offered by the gentleman from Ohio very clearly imposes an additional duty on the President of the United States, the Chair is of the opinion that the amendment is a limitation only in form and that it is legis-

lation upon an appropriation bill and therefore sustains the point of order.

Earmarking Funds for Use as President May Direct

§ 55.12 Language in an appropriation bill earmarking some of the appropriations for the Veterans' Administration for use as the President may direct for a special study of the compensation and pensions program was conceded to be legislation and held not in order.

On Mar. 30, 1955,⁽¹⁷⁾ during consideration in the Committee of the Whole of the independent offices appropriation bill (H.R. 5240), a point of order was raised against the following provision:

The Clerk read as follows:

General operating expenses: For necessary operating expenses of the Veterans' Administration, not otherwise provided for, including expenses incidental to securing employment for war veterans . . . \$155 million, of which (a) \$15,150,000 shall be available for such expenses as are necessary for the loan guaranty program, and (b) \$300,000 shall be available as the President may direct for a special study of the compensation and pensions program: *Provided*, That no part of this appropriation shall be used to pay in excess of 20 persons engaged in public relations work. . . .

16. Fritz G. Lanham (Tex.).

17. 101 CONG. REC. 4070, 84th Cong. 1st Sess.

MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, I make a point of order against the language starting at the end of line 10, page 28, reading "\$300,000 shall be available as the President may direct for a special study of the compensation and pensions program."

MR. [ALBERT] THOMAS [of Texas]: Mr. Chairman, I concede the point.

THE CHAIRMAN:⁽¹⁸⁾ The Chair is ready to rule. This is obviously legislation on an appropriation bill, and the point of order is sustained.

§ 56. Determination of National Interest

Military Assistance; Presidential Determination and Report

§ 56.1 In a paragraph of a foreign aid appropriation bill providing funds for military assistance, language prohibiting use of those funds for the furnishing of sophisticated weapons systems to certain countries "unless the President determines that the furnishing of such weapons systems is important to the national security of the United States and reports within thirty days each such determination to the Congress" was ruled out as legis-

lation on an appropriation bill in violation of Rule XXI clause 2.

On June 4, 1970,⁽¹⁹⁾ 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:

MILITARY ASSISTANCE

Military assistance: For expenses authorized by section 504(a) of the Foreign Assistance Act of 1961, as amended, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, \$350,000,000: *Provided*, That none of the funds contained in this paragraph shall be available for the purchase of new automotive vehicles outside of the United States: *Provided further*, That none of the funds appropriated in that paragraph shall be used to furnish sophisticated weapons systems, such as missile systems and jet aircraft for military purposes, to any underdeveloped country other than Greece, Turkey, the Republic of China, the Philippines, and Korea, unless the President determines that the furnishing of such weapons systems is important to the national security of the United States and reports within thirty days each such determination to the Congress: *Provided further*, That the military assistance program for any country shall not be increased beyond twenty per centum of the amount justi-

18. Albert Rains (Ala.).

19. 116 CONG. REC. 18400, 18401, 91st Cong. 2d Sess.