considered to be generally recognized as safe, without specifically indicating whether that determination is to be made by the FDA or by the Federal Communications Commission.

For the reasons stated, the Chair finds that the amendment would impose substantial new duties and requirements on the Federal Communications Commission beyond its authorities under existing law and, therefore, sustains the point of order.

Parliamentarian's Note: Even if FTC funds had remained in the bill, the amendment was overly broad since applying to all funds in the bill and not confined to FTC activities. The paragraph ruled out as unauthorized, supra, containing funds for the FTC, included similar language relating to the FTC.

§ 59. Defense and Foreign Relations

Buy-America; Equating Standards of Quality or Performance

§ 59.1 It is not in order on a general appropriation bill to require, as a condition to the availability of funds, the imposition of standards of quality or performance not required by law, whether or not such standards are applicable by law to other programs or activities.

On Nov. 18, 1981,[3] an amendment to a general appropriation bill prohibiting the use of funds therein to procure foreign-made items unless their inspection for quality assurance "uses the same standards" which would be required for domestic products by the Department of Defense was ruled out as legislation imposing additional duties absent any showing that existing law already required such inspection of items produced in foreign countries. The proceedings, during consideration of the defense appropriation bill,[4] were as follows:

Mr. [JIM] DUNN [of Michigan]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dunn: Page 68 after line 15, insert the following:

Sec. 792. None of the funds appropriated in this Act may be available for the procurement of any item manufactured in a foreign country unless, during manufacture, the inspection of such item for quality assurance uses the same standards of inspection during manufacture which would be required by the Department of Defense if such item were manufactured domestically.

MR. DUNN [during the reading]: Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

3. 127 CONG. REC. 28076, 28077, 97th Cong. 1st Sess.

4. H.R. 4995.

THE CHAIRMAN:[5] Is there objection to the request of the gentleman from Michigan?

There was no objection.

MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I rise to make a point of order against the amendment.

THE CHAIRMAN: The Chair recognizes the gentleman from Minnesota (Mr. Frenzel) on his point of order.

Mr. Frenzel: Mr. Chairman, in my judgment the amendment is contrary to rule XXI, clause 2, which provides that no amendment changing existing law can be made on an appropriation bill. The amendment clearly gives the Secretary additional duties, to determine what kind of quality assurance or inspection is required under the terms of the amendment and, therefore, the amendment constitutes legislation on an appropriation bill.

Mr. Chairman, I believe the point of order should be sustained.

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

MR. DUNN: Mr. Chairman, the gentleman, I believe, is incorrect. The Secretary already has that discretion. We are simply, in this amendment, trying to make certain that the powers that he uses for national companies are the same as for international companies. He already has that power. It does not change his power.

THE CHAIRMAN: As the Chair reads the amendment, there is clearly a mandatory authority imposing additional duties; absent any showing that existing law already requires such inspection of items produced in foreign countries, the Chair sustains the point of order made by the gentleman from Minnesota (Mr. Frenzel).

Parliamentarian's Note: This decision effectively overrules the ruling of the Chair on July 28, 1959,[6] wherein an amendment denying use of funds to finance construction projects abroad that had not met the criteria used in determining the feasibility of flood control projects in the United States was held a proper limitation, despite any lack of showing that existing law required domestic standards to be applied to foreign construction projects.

It should be noted that it is not just the imposition of new standards that constitutes legislation rendering language subject to a point of order, but the requirement of new procedures or duties involved in making the standards applicable in a setting not contemplated in the existing law.

Defense Contractors Employing Retired Officers

§ 59.2 An amendment providing that none of the funds appropriated in the bill were to be used to enter into con-

5. Daniel D. Rostenkowski (Ill.).

6. 105 CONG. REC. 14522, 14524, 86th Cong. 1st Sess.

tracts with any concern having on its payroll a retired or inactive military officer was held to be a limitation and in order.

On June 3, 1959,[7] during consideration of H.R. 7454 (making appropriations for the Department of Defense), proceedings took place as follows:

The Clerk read as follows:

The appropriation to the Department of Defense for "Construction of ships, Military Sea Transportation Service," shall not be available for obligation after June 30, 1959.

MR. [ALFRED E.] SANTANGELO [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Santangelo: On page 25, after line 17, add new section, as follows:

"GENERAL PROVISIONS

"Sec. 301. None of the funds contained in this Title may be used to enter into a contract with any person, organization, company or concern which provides compensation to a retired or inactive military or naval general officer who has been an active member of the military forces of the United States within 5 years of the date of enactment of this act.". . .

MR. [GERALD R.] FORD [Jr., of Michigan]: Mr. Chairman, I renew my point of order. I agree that there are abuses indicated by the gentleman from New York [Mr. Santangelo]. I think those abuses should be corrected. But, I think at this point, this is the wrong way to do it, and for that reason I make the point of order. In my opinion, this amendment or this limitation places additional burdens on the executive branch of the Government which are not now required by law, and therefore it is legislation on an appropriation bill; therefore subject to a point of order. . . .

MR. SANTANGELO: . . . This is not legislation upon an appropriation bill. This is a limitation of expenditures and restrictions as to the way they shall spend these funds, and it is in no wise legislation. I submit it does not violate the parliamentary rules. . . .

THE CHAIRMAN:[8] The Chair is prepared to rule.

The gentleman from New York [Mr. Santangelo] offered an amendment in the nature of an addition to the pending bill by adding a new section, the language of which was reported with the amendment: None of the funds contained in this title may be used to enter into a contract with any person, organization, company, or concern which provides compensation to a retired or inactive military or naval general officer who has been an active member of the military forces of the United States within 5 years of the date of enactment of this act, to which amendment the gentleman from Michigan makes the point of order that it is legislation on an appropriation bill.

It is obvious that the intent of this amendment is to impose a limitation on the expenditure of the funds here appropriated, and while the point

7. 105 CONG. REC. 9741, 9742, 86th Cong. 1st Sess.

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

might be made that imposing limitations will impose additional burdens, it is nevertheless the opinion of the Chair clearly a limitation on expenditures, and therefore the Chair overrules the point of order.

Parliamentarian's Note: On May 5, 1960,[9] an amendment providing that none of the funds appropriated in the bill may be used to enter into contracts with any concern having on its payroll a retired military officer was held to be a limitation not imposing additional duties on the executive branch.

The amendment in question, offered during consideration of H.R. 11998, a bill making appropriations for the Department of Defense, stated:

> [Add] new section as follows:
>
> "Sec. 535. None of the funds contained in this Title may be used to pay or reimburse any Defense Contractor which employs a retired commissioned officer within two years after his release from active duty for the purpose of selling or aiding or assisting in the selling of anything of value to the Department of Defense or an Armed Force of the United States, or, which within two years from the release from active duty of a retired commissioned officer knowingly permits any such retired commissioned officer to sell or aid in the selling of anything of value to the Department of Defense or an Armed Force of the United States."

It should be noted that the language above, unlike the language of the 1959 amendment, would seemingly require some determinations to be made by federal officials with regard to whether a defense contractor "knowingly" permitted the proscribed acts, as well as the "purposes" for which a retired officer was employed. These complex determinations would now probably be considered such additional burdens placed on an official as would render the language subject to the point of order.

In another ruling, on June 15, 1972,[10] an amendment to a general appropriation bill providing that none of the funds therein be used to purchase goods or services from suppliers who compensate any of the officers or employees in excess of a certain rate was held a valid limitation on the use of funds in the bill. Although it could be argued that the amendment in question in the 1972 ruling did not affirmatively impose levels of salary, but merely stated the qualifications of nonfederal recipients of funds, that ruling would probably not be followed in current practice, since the burden imposed on federal officials (that of discerning employment practices

9. 106 CONG. REC. 9634–36, 86th Cong. 2d Sess.

10. 118 CONG. REC. 21136, 92d Cong. 2d Sess.

and ascertaining salary levels among nonfederal suppliers) would be considered a change in the duties prescribed by existing law for those officials.

Defense Contracts; Restricting Funds for Certain Forms of

§ 59.3 An amendment providing that none of the funds appropriated in the bill shall be used to pay any amount due under a contract which was awarded in accordance with a specified Defense Department policy was held to be a limitation merely descriptive of an existing policy not imposing any additional duties on the executive branch and therefore in order.

On May 5, 1960,[11] the Committee of the Whole was considering H.R. 11998, a bill making appropriations for the Department of Defense. The following proceedings took place:

> Amendment offered by Mr. [James G.] O'Hara of Michigan: On page 45, after line 6, insert the following:
>
> "Sec. 535. No funds appropriated in this Act shall be used to pay any amount under a contract, made after the date of enactment of this Act, which exceeds the amount of a lower bid if such contract would have been awarded to the lower bidder but for the application of any policy which favors the award of such a contract to a person proposing to perform it in a facility not owned by the United States."
>
> And renumber the following section.
>
> MR. [GERALD R.] FORD [Jr., of Michigan]: Mr. Chairman, I am constrained to make a point of order against the amendment offered by the gentleman from Michigan [Mr. O'Hara]. It seems to me this language is clearly subject to a point of order in that it imposes additional duties on the Secretary of Defense. . . .
>
> MR. O'HARA of Michigan: Mr. Chairman, I would like to suggest in connection with the point of order that this is a limitation on an appropriation. It does not attempt to impose any additional duties on the executive branch nor does it attempt to legislate in an appropriation bill.
>
> THE CHAIRMAN:[12] The Chair is ready to rule. . . .
>
> The Chair calls the attention of the committee to previous rulings made on similar points of order and would like in addition to call to the attention of the Committee the ruling that appears in 4 Hinds' Precedents, page 660, in which it is clearly indicated that a limitation is permitted on a general appropriation bill that in effect provides a negative prohibition on the use of the money, and no affirmative direction on the executive branch.
>
> In the opinion of the Chair, the language here offered is a negative prohibition and the Chair, therefore, overrules the point of order.

11. 106 CONG. REC. 9641, 86th Cong. 2d Sess.

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

Defense Contracts; Requiring Renegotiation Agreement

§ 59.4 To a bill making appropriations for national defense, an amendment providing that no part of such appropriation be used for payments under certain contracts until the contractor shall have filed with the appropriate agency a certificate of costs and an agreement for renegotiation satisfactory to the Secretary of War or Secretary of the Navy, was conceded to be legislation and held not in order, in that it granted new authority to an executive officer.

On Mar. 28, 1942,[13] the Committee of the Whole was considering H.R. 6868. The following proceedings took place:

> Amendment offered by Mr. [Francis H.] Case of South Dakota: Page 36, after line 11, insert a new section as follows:
>
> "Sec. 402–A. No part of any appropriation contained in this act shall be available to pay that portion of a contract for construction of any character and/or procurement of material and supplies for either the Military or Naval Establishments, designated as 'final payment' until the contractor shall have filed with the procuring agency a certificate of costs and an agreement for renegotiation and reimbursement satisfactory to the Secretary of War or the Secretary of the Navy as the case may be."
>
> MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, I make the point of order against the amendment that under the guise of a limitation the amendment would require executive action.
>
> MR. CASE of South Dakota: Mr. Chairman, I concede the point of order and offer another amendment.
>
> THE CHAIRMAN:[14] The point of order is sustained.

Qualification of Contractors; Secretary's Approval

§ 59.5 To a defense appropriation bill, an amendment providing that certain funds therein shall not be used under contracts awarded or negotiated after its date of enactment unless the Secretary of Defense finds that such contracts are covered by a vested retirement pension program approved by the Secretary was held to impose additional duties on that federal official and was ruled out as legislation in violation of Rule XXI clause 2.

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13. 88 CONG. REC. 3139, 77th Cong. 2d Sess.

14. Schuyler Otis Bland (Va.).

On Sept. 14, 1972,[15] during consideration in the Committee of the Whole of the Defense Department appropriation bill (H.R. 16593), a point of order was raised against the following provision:

> Amendment offered by Mr. [Barry M.] Goldwater [Jr., of California]: On page 52, after line 8, insert the following:
>
> "Sec. 745. No part of the funds appropriated under title IV or V of the Act shall be made available in regard to contracts awarded or negotiated after the enactment of this act unless the Secretary of Defense shall first find that all persons employed under such contract or subcontract thereunder, are covered by a vested retirement pension program approved under such standards as the Secretary of Defense shall prescribe."
>
> MR. [SIDNEY R.] YATES [of Illinois]: Mr. Chairman, I make a point of order on the amendment offered by the gentleman from California (Mr. Goldwater) that it is legislation on an appropriation bill in that it requires additional duties on the part of the Secretary. . . .
>
> THE CHAIRMAN:[16] The Chair has examined the language of the amendment. The language does place additional duties on the Secretary and, therefore, holds that the amendment is legislation and sustains the point of order.

15. 118 CONG. REC. 30758, 92d Cong. 2d Sess.

16. Daniel D. Rostenkowski (Ill.).

Ship Construction; Directing Percentage in Private Shipyards

§ 59.6 A section in a general appropriation bill requiring that at least 35 percent of funds therein for naval vessel alteration, overhaul, or repair shall be made available for such work in private shipyards, except that the Secretary of Defense may determine that urgency requires such work to be done in the Navy yards or in private yards as he may direct, was conceded to be legislation in violation of Rule XXI clause 2 in that it established affirmative directions and was ruled out on a point of order.

On Sept. 14, 1972,[17] during consideration in the Committee of the Whole of the Defense Department appropriation bill (H.R. 16593), a point of order was raised against the following provision:

> THE CHAIRMAN:[18] The Clerk will read.
>
> The Clerk read as follows:
>
> Sec. 743. Of the funds made available in this Act for the alteration,

17. 118 CONG. REC. 30749, 92d Cong. 2d Sess.

18. Daniel D. Rostenkowski (Ill.).

overhaul, and repair of naval vessels, at least 35 per centum thereof must be made available for such work in privately owned shipyards: *Provided*, That if determined by the Secretary of Defense to be inconsistent with the public interest based on urgency of requirement to have such vessels altered, overhauled, or repaired as required, such work may be done in Navy or private shipyards as he may direct.

MR. [LOUIS C.] WYMAN [of New Hampshire]: Mr. Chairman, I rise on a point of order.

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

MR. WYMAN: My point of order is that section 743 as presently worded is contrary to the rules of the House in that it is legislation upon an appropriation bill in violation of rule XXI, subsection 2. The section contains the positive amendment in line 25, page 51, that a certain amount of work must be made available, and on page 52, lines 3 and 4, there is a specific direction to the Secretary of Defense.

Paragraph 842 of the House Rules Manual, pursuant to rule XXI, subsection 2, provides: "Propositions to establish affirmative directions for executive officers, even in cases where they may have discretion under the law so to do,"—"are subject to the point of order," as are positive requirements in such legislation constituting legislation upon an appropriations bill.

Mr. Chairman, I urge that the section be ruled out of order.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, the point of order is conceded.

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

Granting Discretionary Authority

§ 59.7 Language providing an appropriation for purposes which in the discretion of the Secretary of the Army are desirable in expediting production for military purposes was held to be legislation and not in order.

On Aug. 9, 1951,[19] during consideration in the Committee of the Whole of the Defense Department appropriation bill (H.R. 5054), a point of order was raised against the following provision:

The Clerk read as follows:

EXPEDITING PRODUCTION

To enable the Secretary of the Army, without reference to section 3734 of the Revised Statutes, as amended, and to section 1136 of the Revised Statutes, as amended (except provisions thereof relating to title approval), to expedite the production of equipment and supplies for the Army for emergency national defense purposes, including all of the objects and purposes specified under each of the appropriations available to the Department of the Army during the current fiscal year, for procurement or production of equipment or supplies, for erection of structures, or for acquisition of land; the furnishing of Government-owned facilities at privately owned plants: the procurement and training of civilian personnel in connection with the production of equipment and material

19. 97 CONG. REC. 9733, 82d Cong. 1st Sess.

and the use and operation thereof; and for any other purposes which in the discretion of the Secretary of the Army are desirable in expediting production for military purposes, $1,000,000,000.

MR. [RICHARD B.] WIGGLESWORTH [of Massachusetts]: Mr. Chairman, I make a point of order, on the ground that it is legislation on an appropriation bill, against the language . . . reading as follows: "and for any other purposes which in the discretion of the Secretary of the Army are desirable in expediting production for military purposes."

THE CHAIRMAN:[20] Does the gentleman from Texas desire to be heard on the point of order?

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I am not prepared to say that the language is subject to a point of order. I doubt, however, that the language is necessary. I have no serious objection to the language being stricken from the bill, but I do not want to concede that the language is subject to a point of order.

THE CHAIRMAN: Can the gentleman refer the Chair to any specific law with reference to this language?

MR. MAHON: I do not have the language of the basic legislation before me, Mr. Chairman.

THE CHAIRMAN: The Chair is of the opinion that it is legislation on an appropriation bill and therefore is subject to the point of order. The point of order is sustained.

Requiring Sole Accounting and Reports on Confidential Military Operations

§ 59.8 A paragraph in a general appropriation bill providing for contingent expenditures by the Secretary of Defense to be accounted for solely on his certificate that the expenses were for confidential military purposes and providing for a quarterly report of such disbursements to Congress was held to impose additional duties on the Secretary and was ruled out as legislation.

On Nov. 30, 1973,[1] during consideration in the Committee of the Whole of the Defense Department appropriation bill (H.R. 11575), a point of order was raised against the following provision:

The Clerk read as follows:

CONTINGENCIES, DEFENSE

For emergencies and extraordinary expenses arising in the Department of Defense, to be expended on the approval or authority of the Secretary of Defense and such expenses may be accounted for solely on his certificate that the expenditures were necessary for confidential military purposes; $5,000,000: *Provided*, That a report of disbursements under this item of appropriation shall be made quarterly to Congress.

MR. [ROBERT C.] ECKHARDT [of Texas]: Mr. Chairman, I wish to reserve a point of order with respect to the whole section, and to make the point of order with respect to the provisions reading as follows:

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

1. 119 CONG. REC. 38825, 93d Cong. 1st Sess.

> And such expenses may be accounted for solely on his certificate that the expenditures were necessary for confidential military purposes.

The point of order which is stated and made is by the same proposition made with respect to the same language which occurs elsewhere in the bill. The point of order is reserved, which I do not wish to make at this time until I check whether or not the special contingencies defense is authorized by an authorization bill or by existing statutory law.

I point out to the Chair that the operation and maintenance defense agencies provision had a section there of $5,448,000 in it that was, of course, not disturbed by my previous point of order, and this appears to be made up so that the Defense Department would have some $10,448,000 if this is included.

THE CHAIRMAN:[2] The Chair would like to make the observation that the gentleman from Texas (Mr. Eckhardt) should make his point of order while the paragraph is pending.

MR. ECKHARDT: Mr. Chairman, in that event, I will make both points of order; one against the entire paragraph and the other against the phrase involved. However, I would not press the point of order—well, of course, if it is not justified, it can be shown it is not justified, so I do make the two points of order.

THE CHAIRMAN: Does the gentleman from Texas (Mr. Mahon) wish to be heard on the point of order?

MR. [GEORGE H.] MAHON: I do, Mr. Chairman.

Mr. Chairman, 7 Cannon's Precedents 1273, February 13, 1919, states:

> The organic law creating a department authorizes necessary contingent expenses incident to its maintenance.

This provision has been in the appropriation bill for decades, and I am not able to cite anything more than I have cited in defense of the language. This language has been carried in the Defense Appropriations Act for as long as I can remember.

THE CHAIRMAN: The Chair notes that the paragraph does have legislation, since it requires a report and imposes additional duties. Therefore, the Chair sustains the point of order.

MR. ECKHARDT: Mr. Chairman, that would be both points of order?

THE CHAIRMAN: The point of order is sustained against the paragraph.

Requiring Reports on Feasibility Projects

§ 59.9 To a general appropriation bill making appropriations for foreign assistance, an amendment prohibiting the use of any funds carried in the bill for certain capital projects costing in excess of $1 million until the head of the agency involved has received and considered a report, prepared by officials within the agency, on the justification and feasibility of such project was held to impose additional duties and was ruled out as legislation.

2. Daniel D. Rostenkowski (Ill.).

On Nov. 17, 1967,[3] during consideration in the Committee of the Whole of the foreign aid appropriation bill (H.R. 13893), a point of order was raised against the following amendment:

MR. [JEFFERY] COHELAN [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cohelan: On page 14, immediately after line 16, insert the following:

"Sec. 120. None of the funds appropriated or made available by this Act for carrying out titles I, II, and VI of chapter 2, and chapter 4, of part I of the Foreign Assistance Act of 1961, as amended, may be used for financing, in whole or in part, any capital assistance project as estimated to cost in excess of $1,000,000, until the head of the agency primarily responsible for administering part I of such Act has received and taken into consideration a report on the review of the proposed capital assistance project, conducted by the Controller of such agency with such assistance from other divisions of such agency as he may request, which report shall set forth the Controller's views, comments, and such recommendations as he may deem appropriate with respect to the adequacy of the justification, feasibility studies, and prospects for effective utilization of such project.". . .

MR. [JOHN J.] ROONEY of New York: Mr. Chairman, I must insist upon my point of order to the pending amendment.

THE CHAIRMAN:[4] Does the gentleman from New York wish to be heard on his point of order?

MR. ROONEY of New York: Yes. The point of order is based on the fact that this puts language in the bill, by this amendment, which would cause additional duties to be performed, and it is therefore legislation on an appropriation bill.

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

MR. COHELAN: Mr. Chairman, I was not aware that this procedural point would be raised. It would seem to me that, on the basis of the arguments that have been going on almost the entire afternoon, and on the basis of the references made by my distinguished colleague from Maryland in reference to the functions of the Committee on Appropriations, that I will choose to regard my proposal as a limiting amendment, and therefore germane to the argument before us today.

THE CHAIRMAN: The Chair is ready to rule.

The amendment offered by the gentleman from California adds a new section to the bill which would impose additional duties, determinations, and obligations upon the head of an agency that are not now required under existing law. Therefore the Chair holds that the amendment proposes additional legislation on an appropriation bill.

The Chair, therefore, sustains the point of order.

Requiring Monthly Reports on Small Business

§ 59.10 To an appropriation bill, an amendment which

3. 113 CONG. REC. 32975, 90th Cong. 1st Sess.

4. Charles M. Price (Ill.).

would require the Department of Defense to make monthly reports showing the amount of funds spent with small business as defined by the Small Business Administration, and the funds spent with firms other than small business in the same fields of operation, was held to be legislation and therefore not in order.

On May 12, 1955,[5] during consideration in the Committee of the Whole of the Defense Department appropriation bill (H.R. 6042), a point of order was raised against the following amendment:

MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Patman: In section 611, on page 37, at the end of line 9, strike the period and substitute a colon and add the following language: "*Provided further,* That, for the purposes of aiding in carrying out the national policy to insure that a fair proportion of the total purchases and contracts for supplies and services for the Government be placed with small-business enterprises, and to maintain and strengthen the overall economy of the Nation, the Department of Defense shall make a monthly report to the President, the President of the Senate and the Speaker of the House of Representatives not less than 45 days after the close of the month, showing the amount of funds appropriated to the Department of Defense which have been expended, obligated, or contracted to be spent with small business as defined by the Small Business Administration, and the amount of such funds expended, obligated, or contracted to be spent with firms other than small business in the same fields of operation; and such monthly reports shall show separately the funds expended, obligated, or contracted to be spent for basic and applied scientific research and development."

MR. [HARRY R.] SHEPPARD [of California]: Mr. Chairman, I make a point of order against the amendment on the ground that it is legislation on an appropriation bill. It imposes new duties on the Department which are not presently authorized by law. . . .

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

MR. PATMAN: Yes, Mr. Chairman. The amendment is a limitation on the language that is in the bill. It merely requires reporting to be done.

THE CHAIRMAN: The amendment offered by the gentleman from Texas imposes additional duties which are substantive in nature and, therefore, the proposed amendment is legislation on an appropriation bill. The Chair sustains the point of order.

Where Exception From a Limitation Requires New Duty

§ 59.11 An amendment to an appropriation bill providing that no part of the appropriations therein shall be used to pay compensation of

5. 101 CONG. REC. 6244, 6245, 84th Cong. 1st Sess.

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

any incumbent appointed to fill a vacancy, and providing that this inhibition shall not apply to employees of certain agencies when certified by the head of the agency to be employed on matters essential to the national defense effort, was conceded to be legislation and held not in order.

On May 4, 1951,[7] during consideration in the Committee of the Whole of the independent offices appropriation bill (H.R. 3880), a point of order was raised against the following amendment:

MR. [BEN F.] JENSEN [of Iowa]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jensen: Page 63, after line 12, insert a new section as follows:

"No part of any appropriation or authorization contained in this act shall be used to pay the compensation of any incumbent appointed to any civil office or position which may become vacant during the fiscal year beginning on July 1, 1951: *Provided*, That this inhibition shall not apply—

"(a) to not to exceed 25 percent of all vacancies;

"(b) to positions filled from within the agency;

"(c) to offices or positions required by law to be filled by appointment of the President by and with the advice and consent of the Senate;

"(d) to all employees in veterans' medical facilities;

"(e) to employees in the Atomic Energy Commission and the National Advisory Committee for Aeronautics who are certified by the head of the agency, in writing, as being directly employed on matters essential to the National Defense effort;

"(f) to employees of the General Accounting Office;

"(g) to employees in grades CPC 1 and 2;

"*Provided further*, That when any department or agency covered in this bill shall, as a result of the operation of this amendment reduce their employment to a figure not exceeding 80 percent of the total number on their rolls as of July 1, 1951, such amendment shall cease to apply and said 80 percent figure shall become a ceiling for employment during the fiscal year 1952 and if exceeded at any time during fiscal year 1952 this amendment shall again become operative."

MR. [ALBERT] THOMAS [of Texas]: Mr. Chairman, I make a point of order against the amendment that it places an additional duty upon several of the agencies involved and is, therefore, subject to a point of order. For instance, this language is used: "to employees in the Committee for Aeronautics who are certified by the head of the agency."

Now, that is placing an additional duty on the head of that agency, extra duties and extra authority on him, therefore it is subject to a point of order. Also it says: "in writing, as being directly employed on matters essential to the national defense."

He has got to make a decision there as to what is national defense. He has to make a decision as to what is an essentiality. Therefore, that is placing an additional duty beyond the scope that is proper at this point and, therefore, it

7. 97 CONG. REC. 4914, 82d Cong. 1st Sess.

is subject to a point of order. I suggest that the point of order go to the entire paragraph. It should be stricken in its entirety.

THE CHAIRMAN:[8] Does the gentleman from Iowa [Mr. Jensen] desire to be heard?

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

THE CHAIRMAN: The point of order is sustained.

Authorizing Transfer of Trust Funds for Salary Increases

§ 59.12 Language in a general appropriation bill authorizing a transfer of trust funds sufficient to pay increased salary costs and imposing additional duties on the Administrator of Veterans' Affairs was conceded to be legislation on an appropriation bill and was ruled out by the Chair.

On Apr. 10, 1963,[9] during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 5517), the following point of order was raised:

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I call attention to the language in lines 15 through 20 on page 49, which reads as follows:

> Sec. 203. The Administrator of Veterans' Affairs shall have the authority to transfer not to exceed $1,795,000 from the "Loan guaranty revolving fund" to any other appropriations of the Veterans' Administration to pay for increased pay costs authorized by or pursuant to law for fiscal year 1963 if in his discretion he finds it necessary.

Mr. Chairman, I make the point of order against the language of section 203 on the ground that it is legislation on an appropriation bill. I read from the report of the committee:

> The committee has included a provision which will enable the Administrator in his discretion to use not to exceed $1,795,000 from the loan guaranty revolving fund to cover the cost of such pay increases if he finds it necessary.

I submit this goes beyond the scope of the Appropriations Committee and that it imposes additional duties upon the Director of the Veterans' Administration.

THE CHAIRMAN:[10] Does the gentleman from Texas desire to be heard on the point of order?

MR. [ALBERT] THOMAS [of Texas]: I do, Mr. Chairman.

Mr. Chairman, the point of order made by the gentleman from Iowa is valid. . . .

MR. GROSS: The gentleman will agree that the money will come from the loan guarantee revolving fund and not from funds appropriated to the Veterans' Administration specifically for increased pay costs.

MR. THOMAS: It is not from appropriated funds.

MR. GROSS: And the war veterans could be penalized through such use of revolving funds.

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8. James W. Trimble (Ark.).

9. 109 CONG. REC. 6160, 6161, 88th Cong. 1st Sess.

10. Richard Bolling (Mo.).

MR. THOMAS: No, the veterans will not be penalized. It will help them.

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

THE CHAIRMAN: The gentleman concedes the point of order made by the gentleman from Iowa is well taken.

The Chair sustains the point of order.

Extension of Foreign Service Appointments

§ 59.13 A provision in a general appropriation bill giving the Secretary of State authority to extend foreign service reserve appointments through another year—thus changing the Secretary's authority under existing law—was conceded to be legislation and was ruled out on a point of order.

On May 28, 1968,[11] during consideration in the Committee of the Whole of a general appropriation bill (H.R. 17522), a point of order was raised against the following provision:

The Clerk read as follows:

Sec. 106. Existing appointments and assignments to the Foreign Service Reserve in the Department of State which expire during the current fiscal year may be extended in the discretion of the Secretary of State for a period of one year in addition to the period of appointment or assignment otherwise authorized.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I make a point of order against the language beginning with line 25, on page 13, and extending through line 5 on page 14 as being legislation on an appropriation bill and as calling for added authority on the part of the Department of State without the authority of Congress.

THE CHAIRMAN:[12] Does the gentleman from New York desire to be heard on the point of order?

MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, I am constrained to admit that the point of order is valid.

THE CHAIRMAN: The point of order is sustained.

Authority to Terminate Employment by Secretary of State

§ 59.14 Language in a general appropriation bill providing that the Secretary of State may, in his discretion, terminate the employment of any employee of the Department of State or the Foreign Service whenever he shall deem such termination advisable in the interests of the United States, was held to be legislation on an appropriation bill and not to be a retrenchment within the provisions of the Holman rule.

11. 114 CONG. REC. 15353, 90th Cong. 2d Sess.

12. Wayne L. Hays (Ohio).

On Apr. 20, 1950,[13] during consideration in the Committee of the Whole of a general appropriation bill (H.R. 7786), a point of order was raised against the following provision:

The Clerk read as follows:

Sec. 104. Notwithstanding the provisions of section 6 of the act of August 24, 1912 (37 Stat. 555), or the provisions of any other law, the Secretary of State may, in his absolute discretion, during the current fiscal year, terminate the employment of any officer or employee of the Department of State or of the Foreign Service of the United States whenever he shall deem such termination necessary or advisable in the interests of the United States. . . .

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, a point of order. The language of section 104 gives to the Secretary of State—and I quote from the section—"in his absolute discretion power to terminate the employment of any employee. I do not believe we have ever had legislation in the entire history of this Nation which contained this language "absolute discretion.". . . It is my opinion that this language "absolute discretion" is a piece of very undemocratic legislation on an appropriation bill and I make the point of order against it. It should be stricken from the bill.

THE CHAIRMAN:[14] Does the gentleman from New York [Mr. Rooney] desire to be heard on the point of order?

MR. [JOHN J.] ROONEY: Mr. Chairman, this provision is familiarly known as the McCarran rider and has been in the State Department appropriation bill since 1947. . . . I oppose the point of order, Mr. Chairman. I feel that having been in this bill since 1947 and because it is so necessary that our State Department be what the public of America wants it to be, the language should be continued in the bill.

THE CHAIRMAN: Does the gentleman from New York [Mr. Rooney] concede that it is legislation?

MR. ROONEY: Mr. Chairman, may I most respectfully state that on this subject I will not concede anything.

MR. [JOHN] TABER [of New York]: Mr. Chairman, in my opinion this will result in a saving. It is in accordance with the provisions of the Holman rule. When the power authorized in this language is exercised and the Secretary terminates the employment of any officer or employee in his absolute discretion that will result in a saving. That will save money and is in order.

THE CHAIRMAN: The Chair is prepared to rule.

. . . The Chair invites attention to the fact that the language does confer definite authority and requires certain acts on the part of the Secretary of State. In response to the argument offered by the gentleman from New York [Mr. Taber] as to the application of the Holman rule it is clearly shown by the precedents and decisions of the House that the saving must be apparent and definite on its face in the language of the bill in order for the Holman rule to apply. Certainly an examination of the language in question clearly shows that any saving would be speculative. In view of the long line of precedents and decisions dealing with the ques-

13. 96 CONG. REC. 5480, 5481, 81st Cong. 2d Sess.

14. Jere Cooper (Tenn.).

tion of legislation on an appropriation bill, which is clearly prohibited under the rules of the House, the Chair has no alternative other than to sustain the point of order.

Requiring Certification of Security Clearance

§ 59.15 An amendment to an appropriation bill in the form of a limitation providing that no part of any appropriation in the act shall be used to pay the salary of any person appointed to the Department of State until essential clearance as to loyalty has been certified by the Federal Bureau of Investigation was held to be legislation on an appropriation bill and not in order.

On May 2, 1946,[15] during consideration in the Committee of the Whole of a general appropriation bill (H.R. 6056), a point of order was raised against the following amendment:

MR. [RICHARD B.] WIGGLESWORTH [of Massachusetts]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wigglesworth: On page 32, line 23, after the period insert a new paragraph reading as follows:

"No part of any appropriation in this act shall be used to pay the salary or wage of any person appointed or transferred to the Department of State after September 1, 1945, until essential clearance as to loyalty has been certified by the Federal Bureau of Investigation and the appropriate security committee of the State Department.". . .

MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Chairman, I renew my point of order and insist on it for the reason it is a direction under the guise of a limitation which casts a serious reflection on the personnel of the State Department and it will cripple their activites. I know all Members of the House appreciate how serious my own thoughts have been along the very same lines. I have expressed myself time and time again on this and the hearings are replete and filled with statements made by the chairman and other members of the committee on that subject. We have brought this forcibly to their attention, but this is too drastic an amendment.

Mr. Chairman, I insist on the point of order. . . .

THE CHAIRMAN:[16] The Chair is ready to rule. . . .

The language through the figures "1945" is nothing other than a limitation, perhaps; but the remainder of the language does impose responsibilities and duties upon the Federal Bureau of Investigation which it may not now be called upon to perform under existing law.

The Chair is, therefore, constrained to sustain the point of order made by the gentleman from Michigan.

15. 92 CONG. REC. 4366, 4367, 79th Cong. 2d Sess.

See also 92 CONG. REC. 2695, 79th Cong. 2d, Sess., Mar. 27, 1946.

16. Wilbur D. Mills (Ark.).

Requiring International Organizations to Pay Assessments in Arrears

§ 59.16 To a bill making appropriations for the Department of State, including an item for contributions to various international organizations, an amendment providing that none of the funds might be expended until all other members of such organizations have met their financial obligations was ruled out as legislation requiring determinations of indebtedness.

On May 28, 1968,[17] the Committee of the Whole was considering H.R. 17522, a bill making appropriations for the Departments of State, Justice, and the Judiciary. The Clerk read as follows, and proceedings ensued as indicated below:

> For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, $118,453,000.
>
> MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Gross: On page 5, line 13, replace the period with a colon, and add the following:
>
> "*Provided*, That none of these moneys shall be expended until such time as the financial obligations, past and present, of all other members of each multilateral organization to which this paragraph applies, shall have been fully met.". . .
>
> MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, the point of order is that the amendment would require someone to do additional duties, to make a determination of what is suggested in this amendment, and therefore it is subject to a point of order.
>
> The Chairman:[18]) Does the gentleman from Iowa wish to be heard on the point of order?
>
> MR. GROSS: Only, Mr. Chairman, that it is patently a limitation on the appropriation bill.
>
> THE CHAIRMAN: The Chair believes that this amendment does provide additional duties inasmuch as it says that none of these moneys shall be expended until such time as national obligations, past and present, and so on, shall be fully met, and therefore somebody would have to make a pretty thorough study to decide whether this has been met. Therefore, the Chair sustains the point of order.

Restriction of Foreign Aid to Nations Believed to be Communist Controlled

§ 59.17 To an appropriation bill, an amendment pro-

17. 114 CONG. REC. 15350, 90th Cong. 2d Sess.

18. Wayne L. Hays (Ohio).

19. 101 Cong. Rec. 10245, 84th Cong. 1st Sess.

viding that no part of any appropriation therein shall be used to make grants or loans to any country which the Secretary of State believes to be dominated by the foreign government controlling the world Communist movement was held to be legislation.

On July 11, 1955,[19] during consideration in the Committee of the Whole of the mutual security appropriation bill (H.R. 7224), a point of order was raised against the following amendment:

The Clerk read as follows:

Amendment offered by Mr. Murray of Illinois: Page 12, after line 10, insert the following section:

"Sec. 109. No part of any appropriation contained in this act shall be used to make grants or loans, or otherwise to furnish assistance, to any country the government of which the Secretary of State believes to be substantially directed, dominated, or controlled by the foreign government or foreign organization controlling the world Communist movement referred to in section 2 of the Subversive Activites Control Act of 1950."

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

MR. [JAMES C.] MURRAY [of Illinois]: Mr. Chairman, I am going to be very brief. I think the language of my amendment speaks for itself, and urge its adoption.

MR. PASSMAN: Mr. Chairman, I make a point of order against the amendment that it is legislation on an appropriation bill.

THE CHAIRMAN:[20] The amendment offered by the gentleman from Illinois imposes on the Secretary of State additional duties, and, in the opinion of the Chair, the imposition of those additional duties constitutes legislation on an appropriation bill. Therefore, the point of order is sustained.

Curtailing Funds to Nations Restricting Emigration

§ 59.18 To a general appropriation bill containing funds for foreign assistance, an amendment denying the availability of those funds to any nation "which requires payment above nominal and customary costs" for emigration permits was held to impose additional duties of investigation and interpretation upon federal officials and was ruled out as legislation in violation of Rule XXI clause 2.

On Sept. 21, 1972,[1] during consideration in the Committee of the Whole of the foreign assistance appropriation bill (H.R. 16705), a point of order was raised against the following amendment:

MR. [CHARLES A.] VANIK [of Ohio]: Mr. Chairman, I offer an amendment.

19. 101 Cong. Rec. 10245, 84th Cong. 1st Sess.

20. Francis E. Walter (Pa.).

1. 18 CONG. REC. 31835, 31836, 92d Cong. 2d Sess.

The Clerk read as follows:

Amendment offered by Mr. Vanik: On page 17, after line 12, add the following new section:

"Sec. 506. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, as amended, may be used to provide loans, credits, financial and investment assistance, or insurance guarantees on sales to or investments in any Nation which requires payment above nominal and customary costs for exit visas, exit permits, or for the right to emigrate."

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

THE CHAIRMAN:[2] The gentleman will state his point of order.

MR. PASSMAN: The amendment imposes additional duties on the executive branch in that it requires a determination as to what constitutes a payment above normal and customary cost for exit visas, permits, or the right to emigrate. I would not know how this could be determined without imposing additional duties upon the executive branch.

Upon that basis I plead that the point of order should and I hope it will be sustained.

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

MR. VANIK: I do not feel that the ancient, decadent body of precedent should prevent a Member from making a legitimate and proper amendment to this bill. We should not be restrained in our legislative efforts in dealing with present-day problems by the dead hand of the past.

I ask for a ruling, Mr. Chairman.

THE CHAIRMAN: The Chair is ready to rule. . . .

The Chair has examined the amendment, and finds that it would prohibit use of funds appropriated or made available pursuant to this act, in any nation which requires payment above nominal and customary costs for exit visas, exit permits, or for the right to emigrate. It is apparent to the Chair that someone must make a determination of the "nominal" and "customary" cost, thus imposing additional duties on the executive branch; and therefore in the opinion of the Chair the language constitutes legislation on an appropriation bill. The Chair sustains the point of order.

Prohibiting Funds for International Organizations for Interest Costs

§ 59.19 An amendment to a general appropriation bill prohibiting the availability of funds for international organizations to pay interest costs for loans was ruled out as legislation, requiring federal officials to make determinations not required by existing law as to interest costs paid by international organizations.

On Dec. 9, 1982,[3] during consideration in the Committee of the

2. Charles M. Price (Ill.).

3. 128 CONG. REC.——, 97th Cong. 2d Sess.

Whole of the Departments of Commerce, Justice, State, and the Judiciary appropriation bill (H.R. 6957), a point of order against an amendment was sustained as follows:

The Clerk read as follows:

Amendment offered by Mr. [Neal] Smith of Iowa: On page 30, line 2, after "$449,815,000" insert the following: "*Provided,* That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for any interest costs for loans incurred on or after October 1, 1982.". . .

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, I make a point of order on the same basis that I have raised the point of order on the proviso that was in the bill originally. This amendment will still require the executive branch to make a determination of what international organizations are paying interest, and to what extent, and that this money would not therefore be available in that portion of our U.S. assessment. So, this goes beyond the present procedure that the executive branch is required to make on our existing law.

Therefore, the amendment of the gentleman from Iowa as substituted for the original language in the bill would clearly impose upon the executive branch the new duties not now required by law; and, I submit, still fundamentally legislation in an appropriation bill and is in violation of the letter and spirit of clause 2, rule XXI. I hope that the point of order will be sustained. . . .

It is the understanding of the gentleman from Iowa that in order to make a determination as to the amount of interest, the executive branch would have to require the organizations to make an investigation to what extent interest payments are included in the U.S. assessment. May I further ask, would the gentleman's amendment also require that conditions be imposed on our contribution requiring an agreement with the United Nations that we now do have as far as our assessment, but not as far as to what the proviso or the amendment of the gentleman from Iowa provides?

MR. SMITH of Iowa: Mr. Chairman, I do not think we get into what kind of an agreement may be necessary here. We do not even attempt to do that. But they have the records that would be necessary anyway in reviewing their contributions and how much we owed the United Nations. The State Department has those records anyway. They have to have them in order to make the payments. So there is not anything extra here other than some incidental matter of looking at some papers.

THE CHAIRMAN:[4]. . . The gentleman from Wisconsin (Mr. Zablocki) makes a point of order with regard to the amendment offered by the gentleman from Iowa (Mr. Smith) for essentially the same reasons that he used against the original proviso, in that it constitutes legislation on an appropriations bill by virtue of the fact that it imposes additional duties upon the executive branch.

It is the opinion of the Chair that the gentleman from Wisconsin (Mr. Zablocki) is correct, that there are additional duties which are not trivial

4. George E. Brown, Jr. (Calif.).

which are imposed upon the executive branch, to determine interest amounts and, therefore, the Chair sustains the point of order.

Parliamentarian's Note: The amendment offered above by Mr. Smith sought to achieve the same result as language that had been ruled out of order when carried in the original bill. [See § 52.31, supra, for the language of the bill and the ruling on the point of order.] Subsequently, on Dec. 9, Mr. Smith offered the following amendment:

Amendment offered by Mr. Smith of Iowa: On page 30, line 2, after "$449, 815,000" insert the following: "*Provided,* That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for those interest costs made known to the United States Government by such international organization for loans incurred on or after October 1, 1982.

The amendment in this form was not subject to a point of order. See 7 Cannon's Precedents § 1695, where information "already known" to a federal official was held in order as a proper limitation not requiring new determinations. Where the language on its face merely recites a passive situation as a condition precedent for receipt of funds, as opposed to imposing an ongoing responsibility on a federal official to ascertain information, the language may be a proper limitation.

Limiting Funds for Medical Expenses to Percentage of Customary Charges

§ 59.20 A portion of a paragraph in a general appropriation bill denying the use of funds therein under the CHAMPUS program for reimbursement of health care providers in excess of the 80th percentile of customary charges made for similar services in the same locality was ruled out as legislation in violation of Rule XXI clause 2, where existing law did not impose an affirmative requirement for such determinations but merely authorized issuance of regulations on the subject of reimbursement, even though federal officials were in fact already making such findings pursuant to regulations.

On Aug. 8, 1978,[5] during consideration in the Committee of the Whole of the Department of Defense appropriation bill (H.R. 13635), a point of order was sustained against the following provision in the bill:

The Clerk read as follows:

5. 124 CONG. REC. 24959, 24960, 95th Cong. 2d Sess.

> Sec. 844. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079 (a) of title 10, United States Code, shall be available for . . . (f) reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished. . . .

MR. [ELWOOD H.] HILLIS [of Indiana]: Mr. Chairman, I make a point of order against the language of section 844(f) on the grounds that it violates rule XXI, clause 2 of the rules of the House in that it constitutes legislation in an appropriation bill.

Section 844 refers to section 1079(a), title 10 of the United States Code. However, section 1079(a) states that the "methods for making payment shall be prescribed under joint regulations issued by the Secretary of Defense and the Secretary of Health, Education, and Welfare.". . .

Mr. Chairman, I also cite section 842 of Jefferson's Manual which states in part that—

> Propositions to establish affirmative directions for executive offices even in cases where they may have discretion under the law so to do are subject to a point of order.

While section 1076 of title 10, United States Code grants the Secretary authority to promulgate regulations, part (f) of section 844 of this bill dictates to him the method of determining payments thereby eliminating any discretionary authority on his part. This is clearly legislation insomuch as it requires the Secretary to determine customary charges made for similar services in the same locality where the medical care was furnished. Nowhere in the permanent law is the Secretary required to make these determinations. . . .

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, this provision in the defense bill grows out of the legislation establishing the CHAMPUS operation. The committee maintains that the language in the bill specifically provides for a limitation in expenditures and that the provision in the bill is not subject to a point of order.

THE CHAIRMAN:[6] What the gentleman from Texas (Mr. Mahon) suggests does not apply to that part of the paragraph to which the gentleman from Indiana (Mr. Hillis) makes the point of order.

The Chair observes that the language does require a determination as to what local and customary charges are, and there is nothing presently in existing law that requires those determinations to be made during the next fiscal year. The authorization bill containing such authority is not yet law.

The Chair sustains the point of order with respect to subparagraph (f) to which the gentleman referred.

Parliamentarian's Note: The authorizing law was later amended to require the determination of customary charges.

Limiting Funds for International Narcotics Control; Requiring New Duties

§ 59.21 To a foreign aid general appropriation bill, an amend-

6. Daniel D. Rostenkowski (Ill.).

ment prohibiting the use of international narcotics control funds contained therein for the eradication of marihuana through the use of paraquat unless used with another substance which effectively warns potential users of the marihuana that paraquat has been used on it, was ruled out as legislation requiring new duties and determinations of the executive branch (where an authorization bill requiring similar findings had not yet been signed into law).

The ruling of the Chair on Aug. 4, 1978,[7] was that, while a limitation on the use of funds in a general appropriation bill does not constitute a violation of Rule XXI clause 2 if it merely restates identical language in existing law, the legislation in question must have been signed into law. The proceedings are discussed in § 23.24, supra.

§ 60. District of Columbia

Limiting Duties of Teachers, Not Funds

§ 60.1 A provision in a District of Columbia appropriation bill that teachers shall not perform any clerical work except that necessary or incidental to their regular classroom teaching assignments was ruled out as legislation.

On Apr. 2, 1937,[8] the Committee of the Whole was considering provisions of H.R. 5996, relating to appropriations for personal services of teachers.

> For personal services of teachers and librarians in accordance with the act approved June 4, 1924 (43 Stat., pp. 367–375) . . . $7,157,820: *Provided,* That as teacher vacancies occur during the fiscal year 1938 in grades 1 to 4, inclusive, of the elementary schools, such vacancies may be filled by the assignment of teachers now employed in kindergartens . . . : *Provided further,* That teachers shall not perform any clerical work except that which is necessary or incidental to their regular classroom teaching assignments. . . .
>
> MR. [JACK] NICHOLS [of Oklahoma]: Mr. Chairman, I make a point of order against the language contained on page 25, beginning in line 4, as follows—
>
> > That teachers shall not perform any clerical work except that which is necessary or incidental to their regular classroom teaching assignments—
>
> for the reason that it is legislation and modifies existing law. . . .
>
> THE CHAIRMAN:[9] Patently this is legislation on a general appropriation

7. 124 CONG. REC. 24436, 24437, 95th Cong. 2d Sess.

8. 81 CONG. REC. 3106, 3107, 75th Cong. 1st Sess.

9. Jere Cooper (Tenn.).