that not to exceed a certain amount of money be available for the purchase of motor vehicles was held to be a proper limitation on an appropriation bill for a purpose otherwise authorized by law.

On Apr. 23, 1937,[5] the Committee of the Whole was considering H.R. 6523, an Agriculture Department appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

FEDERAL-AID HIGHWAY SYSTEM

For carrying out the provisions of the act entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes", approved July 11, 1916 (39 Stat., pp. 355–359), and all acts amendatory thereof and supplementary thereto, to be expended in accordance with the provisions of said act, as amended, including not to exceed $556,000 for departmental personal services in the District of Columbia, $150,000,000. . . . *Provided further,* That not to exceed $45,000 of the funds provided for carrying out the provisions of the Federal Highway Act of November 9, 1921 (U.S.C., title 23, secs. 21 and 23), shall be available for the purchase of motor-propelled passenger-carrying vehicles necessary for carrying out the provisions of said act, including the replacement of not to exceed one such vehicle for use in the administrative work of the Bureau of Public Roads in the District of Columbia. . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order that the part of the paragraph beginning with the word "Provided', on page 72, line 13, and running down as far as the word "Columbia", in lines 21 and 22, is not authorized by law.

This refers to the purchase of automobiles. . . .

Mr. [CLARENCE] CANNON of Missouri: Mr. Chairman, this is merely a limitation. Otherwise the whole amount could be spent for automobiles. This proviso limits the amount which may be used. It is not legislation, and is not subject to a point of order. . . .

The Chairman:[6] The Chair is ready to rule.

The Chair overrules the point of order on the ground that the proviso constitutes a limitation, without which the Secretary could spend any amount within the total of the appropriation for this purpose.

Parliamentarian's Note: While the language in the bill was not specifically limited to the funds appropriated, the Chair evidently did construe it as limited to the appropriated funds.

§ 68. Civil Liberties

Segregation by Race, Color, Creed; Limitation on Funds

§ 68.1 An amendment to a District of Columbia appropria-

5. 81 CONG. REC. 3783, 3784, 75th Cong. 1st Sess.

6. Franklin W. Hancock, Jr. (N.C.).

tion bill providing that no part of the money contained in the act shall be used for any agency, office, or department of the District of Columbia which segregates the citizens of the District in employment, facilities afforded, services performed, accommodations furnished, instructions, or aid granted, on account of the race, color, creed, or place of national origin of the citizens of the District was held a proper limitation and in order.

On Apr. 5, 1946,[7] the Committee of the Whole was considering H.R. 5990. The Clerk read as follows:

Amendment offered by Mr. [Adam C.] Powell [Jr., of New York]: In line 7, page 2, insert the following: "*Provided*, That no part of any appropriation contained in this act shall be used for any of the purposes therein mentioned by any agency, office, or department of the District of Columbia which segregates the citizens of the District of Columbia in employment, facilities afforded, services performed, accommodations furnished, instructions or aid granted, on account of the race, color, creed, or place of national origin of the citizens of the District of Columbia."

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I make a point of order against the amendment.

The Chairman:[8] The gentleman will state the point of order.

MR. RANKIN: Mr. Chairman, I make the point of order that the amendment is not germane, and that it is legislation on an appropriation bill, in that it attempts to change the fundamental laws of the District of Columbia that have been established and in effect for at least 80 years or probably a hundred years.

This amendment, if adopted, would destroy the school system of the District of Columbia. It would stir up race hatred and bring about race trouble, the like of which nothing else has ever done in all the history of the District. If it is done, the effect will be to destroy the legislation providing funds with which to carry on the public schools in the District of Columbia.

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, a point of order. The gentleman is not addressing himself to the point of order but is addressing himself to the merits of the legislation.

MR. RANKIN: I am not surprised that the gentleman from New York does not understand me when I am talking to a point of order.

THE CHAIRMAN: The gentleman will address himself to the point of order.

MR. MARCANTONIO: It is very difficult to understand the gentleman when he is talking propaganda.

7. 92 CONG. REC. 3227–29, 79th Cong. 2d Sess. This precedent was followed in later rulings: see Sec. 68.2, infra, for the ruling of Apr. 19, 1950, and see 95 CONG. REC. 1743, 1744, 81st Cong. 1st Sess., for the Mar. 2, 1949, ruling on identical issues.

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

MR. RANKIN: Mr. Chairman, I am developing the point that if this amendment is adopted it will destroy the school system of the District.

THE CHAIRMAN: The gentleman will talk strictly to the point of order.

MR. RANKIN: That is what I am doing now.

It is legislation on an appropriation bill designed to destroy the school system of the District of Columbia for which we are required to appropriate. The people of the District of Columbia have to look to Congress to legislate for them. They have no legislative body of their own. They have maintained this separate school system at least for the last 80 years and probably ever since the District of Columbia was created. This amendment would destroy it, and in my opinion would close the white schools of the District. For that reason I say it is more far reaching than any mere limitation, it is a change in fundamental law, and the point of order should be sustained.

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

MR. [JOHN M.] COFFEE [of Washington]: Mr. Chairman, I make the point of order that the amendment proposes to incorporate a legislative provision in an appropriation bill that does not come within the purview of the Holman rule and that it sets up an affirmative agency in the law.

MR. [HOWARD W.] SMITH of Virginia: Mr. Chairman, I desire to add further points of order upon which I should like to be heard at a later time in the discussion.

THE CHAIRMAN: The Chair would appreciate very much the gentleman's talking to the points of order to help the Chair arrive at a decision.

MR. SMITH of Virginia: I merely want to make them at this time. I will discuss them later.

MR. MARCANTONIO: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. MARCANTONIO: Then there will be two points of order pending at the same time.

THE CHAIRMAN: Any number of reasons can be given for the point of order.

MR. MARCANTONIO: But reasons are different from points of order. I submit the points of order to be dealt with one at a time and the first point of order raised must be passed on before others are made.

MR. RANKIN: Oh, no. That is not the rule.

MR. MARCANTONIO: The Chair will make the ruling, not the gentleman form Mississippi. I am addressing the Chair.

MR. SMITH of Virginia: Mr. Chairman, I make the further point of order that this amendment would impose additional duties upon the executive officials.

I make the further point of order that it does not necessarily and will not even if carried out result in any reduction of expenditures as required under the Holman rule.

I make the further point of order that it is obvious on the face of the amendment that the object is not to effect a retrenchment, as required by the Holman rule, but to effect legislation.

I ask to be heard on these points of order at a later time.

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

MR. POWELL: Mr. Chairman, I do.

The first point of order is that it would change the laws of the District of Columbia. There are no laws of the District of Columbia which guarantee segregation.

As to the second point of order that it would add to expenses, we can cite that segregation has always been more expensive than democracy.

MR. MARCANTONIO: Mr. Chairman, I should like to be heard on the points of order.

THE CHAIRMAN: The Chair will hear the gentleman.

MR. MARCANTONIO: Mr. Chairman, this amendment is definitely a negative limitation. It prohibits the use of funds appropriated in this bill for certain specific purposes which are enumerated in the amendment. It does not change any existing law and Congress has the right to withhold the funds for any purpose enumerated in an appropriation act or to withhold funds for any purpose for which an appropriation is being made.

This bill makes appropriations for the District of Columbia. The amendment simply states that none of the funds appropriated in this bill shall be expended to do certain things. We have had that up time and time again. I recall distinctly the Lea amendment in which funds were withheld from the National Labor Relations Board for taking jurisdiction over so-called agricultural workers.

There is no additional duty imposed upon anyone. The amendment deals with an existing condition, that is, segregation in education, segregation in recreation, in hospitals and other places. I repeat there is no additional duty imposed on anyone. The amendment strictly is a negative limitation which we have had in this committee time and time again. . . .

MR. SMITH OF VIRGINIA: Mr. Chairman, this question all revolves around the so-called Holman rule, which is rule XXI. The theory of the Holman rule is that legislation on an appropriation bill is out of order unless it retrenches expenses and to that has been added by various rulings of the Chair from time to time further limitations upon the rule.

THE CHAIRMAN: Can the gentleman from Virginia give the Chair the benefit of his advice as to how this is a limitation of the fund?

MR. SMITH of Virginia: It is a very definite limitation. It says, "No part of the fund shall be expended," for certain facilities, for certain things, either done or omitted to be done.

THE CHAIRMAN: The Chair is trying to find out whether or not this is a proper limitation. The Chair does not believe that the Holman rule is involved so much as the limitation question.

MR. SMITH of Virginia: Mr. Chairman, if we go to the question of limitation, we still have the same rule to this extent, and you will find it in the rule book under section 845. I will not undertake to read all of it:

> But such limitation must not give affirmative direction and must not impose new duties upon an executive officer.

I made that point of order because if this amendment were adopted it would

cover every executive agent performing the duties covered by these appropriations to proceed to carry out this rule of segregation. It would impose not only affirmative duties but arduous duties upon every executive officer who has anything to do with carrying out these facilities.

It is a very definite rule which has been sustained time and time again by the Speaker and by the chairmen of various committees that no limitation is in order which imposes any other duty upon an executive officer.

Passing that point to another, let me quote:

> And it must not be coupled with legislation not directly instrumental in effecting a reduction.

Let us look at this amendment and see whether it effects any reduction. I ask the gentlemen who oppose the point of order, will this amendment, if adopted, save the District of Columbia a single dollar?

MR. MARCANTONIO: Certainly it would.

MR. SMITH of Virginia: Will it remove a single facility?

MR. MARCANTONIO: Absolutely. Instead of having two school systems you will have one.

MR. SMITH of Virginia: Exactly the same facilities will be required; exactly the same number of children will go to school and exactly the same number of teachers, janitors, the same amount of heat and every other thing appropriated for in this bill will be required.

MR. MARCANTONIO: The gentleman has asked a question. May I answer it? . . .

The point is, Mr. Chairman, in response to the gentleman's question, that with segregation you double the number of administrative offices, the number of facilities, and the expenditures are thereby increased, and therefore the amendment definitely is a saving to the Treasury of the United States.

MR. SMITH of Virginia: That is just the gentleman's conclusion.

MR. MARCANTONIO: Well, the gentleman asked the question.

MR. SMITH of Virginia: My conclusion is just the opposite; that it will not do any such thing. As to the burden of proof when such an amendment is offered and the point of order is made the authorities are clear that it is the duty of the proponent of the amendment to show definitely that there will be a retrenchment in expenditures and a reduction in the necessary appropriations. . . .

MR. POWELL: Since I am the proponent of the measure, I would like to tell my colleague, the gentleman from Virginia, that here in the District of Columbia an entirely duplicate system of superintendence is maintained out of the treasury of the District of Columbia. You have a Negro superintendent and a white superintendent with exactly the same position right down the line. That would be a saving.

MR. SMITH of Virginia: And you would have to have just as many superintendents, and just as many schools, and just as many school children, and just as many teachers.

MR. POWELL: But not as many superintendents.

MR. SMITH of Virginia: I do not know about that. I expect you would have just as many, if not a few more.

Mr. Chairman, there is one other point I wanted to make. It is another

very definite rule of parliamentary law. . . .

MR. RANKIN: This would also increase the number of police required, and increase the expenses of the District instead of curtailing them.

MR. SMITH of Virginia: Well, again, as I say, as I said to the gentleman from New York, that is just one man's opinion, and there has not been any proof that it will save a nickel.

I call attention of the Chairman to the third point I wanted to make. This is on construing a proposed limitation, and I think very crucial and very decisive on this point of order.

> In construing a proposed limitation, if the Chair finds the purpose to be legislative, in that the intent is to restrict executive discretion to a degree that may be fairly termed a change in policy rather than a matter of administrative detail, he should sustain the point of order.

Now, this is definitely a situation where obviously the purpose is to change an administrative policy, a policy that has long prevailed, and the authorities on that are so definite and so clear that it seems there can be no doubt left.

I would like to read the Chair what Chairman Luce said on January 8, 1925, when this amendment was up, which was offered by Mr. Hull, of Iowa, which reads:

> No part of the moneys appropriated in this act shall be used to pay any officer to recruit the Army beyond the limit of 100,000, 3-year enlisted strength.

There was long discussion about the point of order on that amendment, and this is the conclusion of the Chair on page 1497:

> In the judgment of the Chair there is no adequate proof embodied in the amendment, or any necessary conclusion from the amendment, that there will be a reduction of expenditure.

Therefore, the Chair is unable to see that it complies in this regard with the second paragraph of rule XXI, commonly known as the Holman rule.

I think that is all I have to say except to call attention to one more extract of a ruling that took place on February 18, 1918, when Mr. Saunders, of Virginia, was in the chair and a similar question arose. He said:

> The situation developed by this amendment is as follows: The amendment first proposes to reduce the amount carried in this paragraph. That is perfectly competent under parliamentary law. In addition, it is proposed for legislation to accompany the reducing portion of the amendment. But this legislation has no sort of relation to the proposed reduction. It is perfectly competent to legislate on an appropriation bill, provided the legislation proposed necessarily effects a reduction; but it is just as plainly incompetent to propose a reducing amendment to an appropriation bill, a motion which can be made at any time without reference to the Holman rule, and then undertake to attach to this motion legislation which does not effect the reduction and is not in any wise related to it.

I submit, Mr. Chairman, that the amendment is clearly subject to the point of order. . . .

MR. RANKIN: I call the gentleman's attention also to the fact that it has been held time and time again that the reduction or entrenchment must show on the face of the amendment. This amendment shows no such reduction.

MR. SMITH of Virginia: That would show it would be a saving of money?

MR. RANKIN: Yes. This amendment makes no such showing. . . .

MR. MARCANTONIO: First of all, the Chair has ruled with regard to the Holman rule. What is involved here, as the gentleman from Virginia pointed out, is whether or not there is a change of policy or law; and when we are talking about policy we are talking about law. This amendment does not involve a change in the law at all. This restricts, or rather, prohibits the use of funds with regard to an administration which is not authorized by law at all. Congress has passed no law providing for segregation in the District of Columbia. Segregation is only an administration ruling applied by various agencies and departments of the District of Columbia. Congress certainly has the right to say, by means of a negative limitation, that none of those agencies can have any funds in carrying out that particular practice. I see no difference between this negative limitation and all of the others that we have had before this Committee. It simply says to the various bureaus, "No funds shall be given to you, not for the carrying out of any law, but no funds shall be given to you for the carrying out of a practice not authorized by law." Therein lies the distinction between the situation the gentleman from Virginia tried to set up and what we actually have involved in this amendment.

MR. RANKIN: Mr. Chairman, I would like to be heard for a moment on the point of order.

THE CHAIRMAN: The Chair will hear the gentleman from Mississippi.

MR. RANKIN: I call the attention of the Chair to the fact, as I pointed out to the gentleman from Virginia a moment ago, that it has been held time and time again that in order to be in order under the Holman rule the reduction or retrenchment must show on the face of the amendment. All the reduction they propose is speculative.

If you are going off into the realm of speculation, I submit that this amendment will probably increase expenses far more than it will curtail them, by increasing the police force, hospital facilities, doctors, jail facilities, and other things of that kind. I submit that this is merely a fantastic attempt to stir up race trouble in the District of Columbia, and the point of order should be sustained.

THE CHAIRMAN: The Chair is ready to rule.

The Chair has listened very attentively to the arguments pro and con and has reached the conclusion that the Holman rule is not in issue at the present moment. The wording of the amendment reads, "Provided, that no part of any appropriation contained in this act shall be used for any of the purposes therein mentioned," and they are enumerated.

After serious consideration, the Chair is of the opinion that the amendment is a proper limitation and overrules the point of order.

§ 68.2 An amendment to a chapter of the general appropriation bill, 1951, providing that no part of any appropriation contained in this chapter shall be used for any of the purposes therein men-

tioned by any agency, office, or department of the District of Columbia which segregates the citizens of the District of Columbia in employment, facilities afforded, services performed, accommodations furnished, instructions or aid granted, on account of race, color, creed, or place of national origin of the citizens of the District of Columbia, was held to be a proper limitation restricting the availability of funds and therefore in order.

On Apr. 19, 1950,[9] the Committee of the Whole was considering H.R. 7786. The Clerk read as follows:

Amendment offered by Mr. (Vito) Marcantonio (of New York): Page 2, line 5, after the period, insert the following: "*Provided*, That no part of any appropriation contained in this chapter shall be used for any of the purposes therein mentioned by any agency, office or department of the District of Columbia which segregates the citizens of the District of Columbia in employment, facilities afforded, services performed, accommodations furnished, instructions or aid granted, on account of race, color, creed, or place of national origin of the citizens of the District of Columbia."

MR. [JOE B.] BATES of Kentucky: Mr. Chairman, I make a point of order against the amendment.

Mr. Chairman, I make the point of order that the amendment is not germane. It goes beyond the scope of the chapter that we have under consideration.

MR. MARCANTONIO: . . . The amendment is a negative limitation. It does not violate the Holman rule. It provides for a saving. We had the same situation on March 2, 1949, and on April 5, 1946, and the germaneness of the amendment was sustained by the Chairmen. I call the Chair's attention to the two precedents, the one on March 2, 1949, and the one on April 5, 1946. . . .

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I just rise to say that this amendment is not in order. In the first place it is legislation on an appropriation bill. It attempts to change a law, to change the requirements, you might say, for the use of this money in the District of Columbia, and in that way attempts to write legislation into an appropriation bill, and is therefore not in order.

THE CHAIRMAN:[10] The Chair is prepared to rule. The gentleman from New York has offered an amendment which has been reported. Of course, the decision of the Chair has to be in conformance with the precedents and the rules of the House, and it certainly does not reflect any individual views of the Chair.

The Chair invites attention to the fact that the identical amendment was offered on two previous occasions, on April 5, 1946,[11] and on March 2, 1949.[12] In both instances the point of order was overruled. Under the prece-

9. 96 CONG. REC. 5390, 81st Cong. 2d Sess.

10. Jere Cooper (Tenn.).

11. See § 68.1, supra.

12. See 95 CONG. REC. 1743, 1744, 81st Cong. 1st Sess.

dents here cited, the Chair is compelled to overrule the point of order.

§ 68.3 To a section of a supplemental appropriation bill making appropriations for the Air Force, an amendment providing that none of the funds appropriated therein shall be used in the branches of the Department of the Air Force in which there exists racial segregation was held germane and a proper limitation restricting the availability of funds.

On Apr. 15, 1948,[13] the Committee of the Whole was considering H.R. 6226. The Clerk read as follows:

> Amendment offered by Mr. [Adam C.] Powell [Jr., of New York]: On page 2, line 25, insert "*Provided further,* That none of the funds herein appropriated shall be used in the branches of the Department of the Air Force in which there exists racial segregation.". . .
>
> MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I make the point of order that this amendment is not germane and it is, therefore, not in order on this bill; that it is legislation on an appropriation bill; that it imposes additional burdens and restrictions that are entirely out of place.
>
> This is an aircraft procurement bill. This is not a labor bill. I submit that the amendment is out of order from practically every standpoint.
>
> THE CHAIRMAN:[14] Does the gentleman from New York desire to be heard on the point of order?
>
> MR. POWELL: Yes, Mr. Chairman. This is an amendment which has limitations; it is negative; it is the type that has been ruled in order on previous appropriation bills.
>
> THE CHAIRMAN: The Chair is ready to rule. . . . The Chair is constrained to rule that the amendment is germane and is in order and consequently overrules the point of order.

§ 68.4 To the Federal Security Agency title of the general appropriation bill, 1951, an amendment providing that "No part of any appropriation under this title shall be paid as grants to any State or educational institution in which, because of race, color, or creed, discriminatory practices deny equality of educational opportunity or employment to anyone to pursue such educational courses or employment as are provided by such a grant," was held to be a proper limitation restricting the availability of funds and in order.

On Apr. 26, 1950,[15] the Committee of the Whole was consid-

13. 94 CONG. REC. 4543, 80th Cong. 2d Sess.

14. Joseph P. O'Hara (Minn.).

15. 96 CONG. REC. 5816, 5817, 81st Cong. 2d Sess.

ering H.R. 7786. The Clerk read as follows:

Amendment offered by Mr. (Vito) Marcantonio (of New York): On page 151, line 5, after the period, add a new section:

"Sec. 209. No part of any appropriation under this title shall be paid as grants to any State or educational institution in which, because of race, color, or creed, discriminatory practices deny equality of educational opportunity or employment to anyone to pursue such educational courses or employment as are provided by such a grant."

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, a point of order. I make the point of order that the amendment is not germane and that it is legislation on an appropriation bill. I do not see how those conclusions can be escaped. It is clearly legislation on an appropriation bill, and an attempt to interfere with and direct the affairs of every State in the Union and of every Territory. The point of order should be sustained.

THE CHAIRMAN:[16] Does the gentleman from New York desire to be heard on the point of order?

MR. MARCANTONIO: Yes, I do, Mr. Chairman. I refer the Chairman to the Congressional Record of March 8, 1948, page 2356. This identical amendment was offered by me on that day and a point of order was made by the gentleman from Mississippi, against the amendment. It is the same amendment, word for word, to the same section of the bill, and the point of order was overruled. It is definitely a negative limitation.

MR. RANKIN: Mr. Chairman, I just want to state in reply that because one Chairman makes a mistake does not bind the House for all time to come. There was an error on the part of the Chairman, 2 years ago.

THE CHAIRMAN: The Chair is prepared to rule. The gentleman from Mississippi knows that the present occupant of the chair is bound by the decisions and precedents of the House.

The gentleman from New York [Mr. Marcantonio] has offered an amendment which has been reported, and the gentleman from Mississippi has made a point of order against the amendment. The Chair has examined the amendment and has compared it with the language appearing in the amendment offered by the gentleman from New York on March 8, 1948, against which a point of order was made by the gentleman from Mississippi on the same grounds as stated by him on this occasion. At that time the Chair ruled that the amendment was a limitation on an appropriation bill. Of course, it is the duty of the occupant of the chair to follow the rules of the House and the precedents and decisions of the House. So, in view of this decision the Chair is compelled to and has no other recourse than to overrule the point of order.

Parliamentarian's Note: In the Mar. 8, 1948, ruling[17] referred to by Mr. Marcantonio, the Chairman, Forest A. Harness, of Indiana, decided that an identical amendment was germane to H.R.

16. Jere Cooper (Tenn.).

17. 94 CONG. REC. 2356, 80th Cong. 2d Sess.

5728, the Labor-Federal Security appropriation bill. Mr. Rankin made the point of order:

MR. RANKIN: Mr. Chairman, I make a point of order against the amendment that the amendment is not germane and it is not in order at this point in the bill. . . .

Mr. MARCANTONIO: . . . The amendment certainly is germane. It is simply a negative limitation. It restricts the use of the funds and it is clearly in order.

THE CHAIRMAN: There is no question but that the amendment is germane. This is an appropriation bill and the amendment deals with an appropriation made in the bill. Therefore the Chair overrules the point of order.

§ 68.5 In an appropriation bill providing funds for grants for hospital construction, an amendment providing that "no part of any appropriation contained in this section shall be used . . . by any agency or facility which segregates . . . on account of race, color, ancestry or religion" was held to be a limitation and in order.

On Apr. 3, 1957,[18] the Committee of the Whole was considering H.R. 6287, a Departments of Labor, and Health, Education, and Welfare appropriation bill. The Clerk read as follows:

Grants for hospital construction: For payments under parts C and G, title VI, of the act, as amended, $121,200,000, of which $99,000,000 shall be for payments for hospitals and related facilities pursuant to part C, $1,200,000 shall be for the purposes authorized in section 636 of the act, and $21,000,000 shall be for payments for facilities pursuant to part G, as follows: $6,500,000 for diagnostic or treatment centers, $6,500,000 for hospitals for the chronically ill and impaired, $4,000,000 for rehabilitation facilities, and $4,000,000 for nursing homes: *Provided,* That allotments under such parts C and G to the several States for the current fiscal year shall be made on the basis of amounts equal to the limitations specified herein. . . .

MR. [ADAM C.] POWELL [Jr., of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Powell: On page 25, line 17, before the period insert "*Provided,* That no part of any appropriation contained in this section shall be used for any of the purposes therein mentioned by any agency or facility which segregates citizens in facilities offered, services performed, and granted on account of race, color, ancestry or religion." . . .

MR. [ROSS] BASS of Tennessee: Mr. Chairman, I make a point of order that the amendment is not germane for the same reason that the other amendment was not germane. . . .

MR. POWELL: Mr. Chairman, I would like to say this amendment in exact language as submitted has been held to be germane for the 13 years I have been a Member of the House of Representatives and I submit the following

18. 103 CONG. REC. 5018, 5024, 85th Cong. 1st Sess.

pages in the Record: For instance, in the 83d Congress, 1st session, volume 99, part 5, page 5921, where the Parliamentarian upheld my views.

THE CHAIRMAN:[19] The Chair is ready to rule, having ruled on a quite similar motion back in 1946 when the District of Columbia appropriation bill was up for consideration. The Chair held then that it was a limitation on the use of the money and so holds now, and therefore overrules the point of order.

§ 68.6 To a bill appropriating funds for the Civil War Centennial Commission, an amendment providing that none of the funds appropriated may be used for activities conducted in facilities in which individuals are segregated or discriminated against because of race, religion, or color was held to be a limitation and in order.

On Apr. 18, 1961,[20] the Committee of the Whole was considering H.R. 6345, a Department of the Interior appropriation bill. The Clerk read as follows:

Amendment offered by Mr. [Harold M.] Ryan [of Michigan]: Page 41, immediately before the period in line 18, insert the following: ", except that no part of such amount shall be expended for activities of the Civil War Centennial Commission conducted in facilities in which individuals are segregated on the basis of race, religion, or color, or for any activities of the Commission in which individuals are discriminated against on the basis of race, religion, or color."

MR. [MICHAEL J.] KIRWAN [of Ohio]: Mr. Chairman, I make a point of order against the amendment, in that it is legislation on an appropriation bill. . . .

MR. RYAN: Mr. Chairman, I submit the amendment is in order because it is a limitation on the appropriation and how it shall be spent. I believe the amendment is in order under previous rulings and under section 843 of the rules of the House.

THE CHAIRMAN:[1] The Chair is ready to rule.

It appears to the Chair that this is merely a limitation on an appropriation bill; therefore, the point of order is overruled.

§ 68.7 To an appropriation bill providing funds for hospital construction, an amendment providing that no part of the appropriations in the paragraph under consideration be used for any hospital having separate facilities on the basis of race, creed, or color was held to be a limitation and in order.

On Mar. 27, 1962,[2] the Committee of the Whole was consid-

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

20. 107 CONG. REC. 6132, 87th Cong. 1st Sess.

1. Charles M. Price (Ill.).

2. 108 CONG. REC. 5164, 5165, 87th Cong. 2d Sess.

ering H.R. 10904, a Department of Health, Education, and Welfare appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

HOSPITAL CONSTRUCTION ACTIVITIES

To carry out the provisions of title VI of the Act, as amended, $188,572,000, of which $125,000,000 shall be for grants or loans for hospitals and related facilities pursuant to part C. . . .

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

The Clerk read as follows:

Amendment offered by Mr. Ryan of New York: On page 25, line 21, immediately before the period insert the following ": *Provided further,* That no part of the amounts appropriated in this paragraph may be used for grants or loans for any hospital, facility, or nursing home established, or having separate facilities for population groups ascertained on the basis of race, creed, or color". . . .

MR. [JOHN E.] FOGARTY [of Rhode Island]: Mr. Chairman, I reserve the point of order.

MR. RYAN of New York: Mr. Chairman and Members of the House, I rise to support an amendment which would provide a limitation upon the appropriations for hospital construction activities: that is, relating to page 25 of the bill.

Mr. Chairman, this amendment would prevent the use of funds appropriated under the Hill-Burton Act for hospital construction for segregated facilities.

The Hill-Burton program has provided Federal financing to help construct more than 2,000 medical care facilities in 11 Southern States. Since the inception of the Hill-Burton program these States have received $562,921,000 for hospital construction. Authorities have pointed out that virtually all of these institutions discriminate in various ways against Negro citizens.

Patterns of discrimination may vary. For example, some hospitals bar Negro patients altogether. The New York Times on February 13, 1962, reported that, according to the Department of Health, Education, and Welfare, 100 of the 4,000 Hill-Burton hospitals bar Negroes. Others admit Negro patients, but segregate them within the hospital. One hospital in Georgia, for example, provides only 12 beds for Negro patients, and the beds are located in a segregated section of the hospital in the basement. This hospital also refuses to admit any Negro pediatric or maternity cases. In addition, many Southern hospitals refuse to allow Negro doctors to treat patients in the hospital, and discriminate against Negroes in their employment practices.

Recently, discriminatory practices in federally aided hospitals have been dramatized. On February 13, 1962, six Negro doctors and three Negro dentists and two Negroes in need of medical care filed a complaint in a Federal district court in Greensboro, N.C. The complaint alleged that discriminatory practices in hospitals violate the due process and equal protection clause of the fifth amendment. The court has been asked to issue an injunction prohibiting the defendants from—

Continuing to enforce the policy, practice, custom, and usage of deny-

ing admission to patients on the basis of race and in any way conditioning or abridging the admission to, and use of, the said facilities on the basis of race.

The pattern of discrimination may vary, Mr. Chairman, but there is abundant evidence that the results seldom do. The policy of "separate but equal" in our medical care system almost invariably results in the unequal or inadequate medical care for many American citizens. Equality must be more than a mere slogan. It must, if we are to be true to our democratic principles, be a reality.

I believe that the elimination of Federal expenditures for segregated facilities is long overdue and that it is time for the U.S. Congress to make clear that it does not condone racial segregation in our hospitals nor the practice of using taxpayer's money to support this doctrine. I hope that all the Members of this body will support this amendment and uphold the principles upon which our Nation was founded.

Civil rights is the great unfinished business facing America. It is the unfinished business of Congress. Of course, I do not mean to imply by my amendment that the executive branch is without power to act in this situation, but I do believe that Congress has a present responsibility. By adopting this simple amendment, we have the opportunity to strike down one area of discrimination. Mr. Chairman, I urge its adoption. . . .

MR. FOGARTY: Mr. Chairman, ever since I have been on this committee I have opposed legislation on appropriation bills. In my opinion, even though this is technically a limitation, this would have the effect of changing existing law, the so-called Hill-Burton Act. Therefore, I request that the amendment be voted down. . . .

THE CHAIRMAN:[3] The gentleman from Rhode Island has reserved his point of order. Does the gentleman from Rhode Island insist on the point of order?

MR. FOGARTY: Mr. Chairman, I waive the point of order. I have stated my reasons as to why the amendment should be defeated and I ask the committee to vote down the amendment. . . .

MR. JAMES C. DAVIS [of Georgia]: Mr. Chairman, I was on my feet at the time the gentleman from Rhode Island was recognized and I was on my feet for the purpose of making a point of order against the amendment. . . .

THE CHAIRMAN: The gentleman from Georgia [Mr. James C. Davis] now states he was on his feet attempting to press a point of order against the amendment, but the Chair had understood that the gentleman from Rhode Island did insist on his point of order. However, the Chair was in error as to that and the gentleman from Georgia is now recognized to make his point of order. . . .

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

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from New York has offered an amendment to which a point of order has been made. . . .

The Chair is of the opinion that the amendment is a proper limitation

3. Omar T. Burleson (Tex.).

under the rules of the House and, therefore, overrules the point of order.

Busing of Students

§ 68.8 A provision in an appropriation bill prohibiting the use of the funds therein "to force busing of students, the abolishment of any school or the attendance of students at a particular school as a condition precedent to obtaining Federal funds" was held in order as a limitation.

On July 31, 1969,[4] the Committee of the Whole was considering H.R. 13111, an appropriation bill for the Departments of Labor, and Health, Education, and Welfare.

The Clerk Read as follows:

Sec. 409. No part of the funds contained in this Act shall be used to force busing of students, the abolishment of any school or the attendance of students at a particular school as a condition precedent to obtaining Federal funds otherwise available to any State, school district, or school.

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, I raise the point of order on section 409 on page 56 of the bill that this is legislation on an appropriation bill. It violates section 834 of the House rules. It does not comply with the Holman rule. It is not a retrenchment. In fact, it adds additional burdens and additional duties, just as the Chair ruled against my amendment to section 408 because it would require additional personnel to determine whether busing has been used, one, for the abolishing of any school and, two, to require the attendance of any student at any particular school. You would have to have investigators there to determine this as a condition precedent to obtaining Federal funds otherwise available to any State school district or school: No. 1, for the abolition of any school, and No. 2, whether the attendance of any student at any particular school could be investigated there to determine this as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

Therefore, Mr. Chairman, I urge the Chairman to sustain the point of order. . . .

MR. [JAMIE L.] WHITTEN [of Mississippi]: . . . Mr. Chairman, I raised the point awhile ago that the gentleman, having asked unanimous consent that the amendments to the two sections be considered en bloc and having obtained that unanimous-consent request, and after having the amendments considered en bloc in connection with the two sections, that the House has already considered section 409 and the point of order comes too late. That is the situation on the one hand.

Second, a reading of the section clearly shows that the House has already considered section 409 in connection with the prior amendments. In addition to that, this is clearly a limitation on an appropriation bill and does not have to conform to the Holman rule.

MR. [JOE D.] WAGGONNER [Jr., of Louisiana]: Mr. Chairman—

4. 115 CONG. REC. 21677, 21678, 91st Cong. 1st Sess.

THE CHAIRMAN:[5] Does the gentleman from Louisiana desire to be heard on the point of order?

MR. WAGGONNER: I do, Mr. Chairman.

Mr. Chairman, this is clearly a limitation on the expenditure of funds provided in this legislation. The wording of section 409 is identical in every respect with the wording of the language included in the bill last year and agreed to by this House. Therefore, we have the precedent of its having been accepted without a point of order having been made.

MR. CONTE: Mr. Chairman, may I be heard further on the point of order?

THE CHAIRMAN: The Chair recognizes the gentleman from Massachusetts for that purpose.

MR. CONTE: The point of order that was ruled against the amendment offered was passed by this House last year on a unanimous vote and no one raised a point of order on that.

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

The clear intent of this section is to impose a negative restriction on the use of the moneys contained in this bill.

The Chair has examined a decision in a situation similar to that presented by the current amendment in the 86th Congress, during consideration of the Defense Department appropriation bill, an amendment was offered by Mr. O'Hara, of Michigan, which provided—and the Chair is now paraphrasing—no funds appropriated in that bill should be used to pay on a contract which was awarded to the higher of two bidders because of certain Defense Department policies. The Chairman of the Committee of the Whole, Mr. Keogh, of New York, held the amendment in order as a limitation, even though it touched on the policy of an executive department—86th Congress, May 5, 1960; Congressional Record, volume 106, part 7, page 9641. Chairman Keogh quoted, in his decision, the precedent carried in section 3968 of volume IV, Hinds' Precedents, and the Chair thinks the headnote of that earlier precedent is applicable here:

> The House may provide that no part of an appropriation shall be used in a certain way, even though executive discretion be thereby negatively restricted.

The Chair overrules the point of order.

Parliamentarian's Note: But see § 61.1, supra, where a prohibition against the use of funds "in order to overcome racial imbalance" was held to impose additional duties on federal officials and was ruled out as legislation on July 31, 1969.

§ 68.9 To provisions in a general appropriation bill prohibiting the use of funds therein to force any school district to take any actions involving the busing of students, or other specified actions, against the will of parents, or as a condition precedent to obtaining federal funds, amendments limiting

5. Chet Holifield (Calif.).

the application of such provisions to those school districts in which students are assigned to particular schools on the basis of geographic attendance areas drawn without consideration of race were held in order as adding definitions to the valid limitations in the bill and as being merely descriptive of the school districts covered thereby.

On Feb. 19, 1970,[6] the Committee of the Whole was considering H.R. 15931, a Departments of Labor, and Health, Education, and Welfare, appropriation bill, which contained the following provisions:

> Sec. 408. No part of the funds contained in this Act may be used to force any school district to take any actions involving the busing of students, the abolishment of any school or the assignment of any student attending any elementary or secondary school to a particular school against the choice of his or her parents or parent.
>
> Sec. 409. No part of the funds contained in this Act shall be used to force any school district to take any actions involving the busing of students, the abolishment of any school or the assignment of students to a particular school as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

The following amendments were offered to such provisions, and a point of order against the amendments was subsequently made:

> Amendments offered by Mr. [James G.] O'Hara [of Michigan]: On page 60, line 20 after the words "school district" insert "in which students are assigned to particular schools on the basis of geographic attendance areas drawn without consideration of the race or color of prospective students and in which personnel are assigned without regard to race or color" and on line 23 after the words "particular school" insert the words "other than his neighborhood school."
>
> On page 61, line 2, after the words, "school district," insert the words, "in which students are assigned to particular schools on the basis of geographic attendance areas drawn without consideration of the race or color of prospective students and in which personnel are assigned without regard to race or color." And on line 4, after the words, "particular school," insert the words, "other than his neighborhood school." . . .
>
> MR. O'HARA: Mr. Chairman, these are the neighborhood school amendments.
>
> We have heard a good deal of oratory recently to the effect that the problem of segregation in the South is just exactly like the problem of segregation in the North, and that we ought to treat the two alike and consider them the same.

6. 116 CONG. REC. 4028, 4029, 91st Cong. 2d Sess. The provisions in the appropriation bill containing the prohibition described above are quoted on p. 4022, by Mr. Jamie L. Whitten (Miss.).

Well, I do not happen to agree with that, Mr. Chairman, but I am here giving a clear-cut opportunity to any southern school system to enjoy the benefits of the Whitten amendment by establishing a neighborhood school system in which attendance areas are drawn without regard to race and in which personnel are assigned without regard to race.

This amendment is designed to prevent a school district from having its cake and eating it at the same time. The Whitten amendment, if my amendments are adopted, would apply only to school systems that have a bona fide neighborhood school system. It would not apply to a school system that is already busing pupils in order to maintain segregation. The Whitten amendments, if my amendments are adopted, would not apply to dual school systems—the school systems where they are now taking a black child who might live next door to the white school and busing him across the county to the black school. They would not obtain any benefit from the Whitten amendments if my amendments to them are adopted.

Mr. Chairman, this is an eminently reasonable amendment, and I hope it will be adopted.

MR. GERALD R. FORD [of Michigan]: . . . [A]s I read the language proposed in the amendment, it seems crystal clear to me that the language imposes on the executive branch additional burdens and consequently is contrary to the rules of the House as far as legislation on an appropriation bill is concerned. It is clearly an instance of where the language proposed adds burdens and is contrary to the rules of the House as far as legislation on an appropriation bill is concerned. None of the additional burdens were previously authorized by law. . . .

MR. O'HARA: . . . Mr. Chairman, the limitation is in sections 408 and 409. It is a bona fide limitation. All my amendment seeks to do is to prescribe with particularity the school districts to which the limitation in sections 408 and 409 will apply. It does not seek to insert the limitation or to provide for legislation. It simply seeks to describe with more particularity the school districts and the school systems to which the limitations in sections 408 and 409 will apply. Therefore I submit it is not legislation. . . .

MR. GERALD R. FORD: There is nothing in Federal law today which would authorize such action by the proper officials in the executive branch of the Government. This addition to the limitation in sections 408 and 409 does put additional burdens on the executive branch of the Government to determine these kinds of school districts. It is perfectly obvious by the proposed language that it has to be done in each and every case. It is not authorized by law. It is a new burden. It is therefore legislation on an appropriation bill.

THE CHAIRMAN:[7] The Chair is prepared to rule.

The Chair has had occasion to study both of the amendments and the language contained therein. It is clear to the Chair that the language relates to the limitations which are already a part of sections 408 and 409. It defines the limitations further by adding an additional definition to the limitations and in the opinion of the Chair is negative insofar as additional action is

7. Chet Holifield (Calif.).

concerned on the ground that it really is a description of the school district as it exists at the present time. Therefore, the Chair is constrained to overrule the point of order.

§ 69. Commerce and Public Works

Maritime Commission; Limiting Funds for Vessel Construction

§ 69.1 To a paragraph of a bill providing money for construction of ships by the Maritime Commission, an amendment prohibiting such appropriation for the construction of any vessel for use as a naval auxiliary that is not constructed on a reimbursable basis from funds appropriated to the Navy Department pursuant to an act as specified, was held a proper limitation on an appropriation bill and in order.

On Feb. 26, 1943, the Committee of the Whole was considering H.R. 1974, a deficiency appropriation bill. Under consideration was the following provision: (8)

Construction fund, United States Maritime Commission: To increase the construction fund established by the Merchant Marine act, 1936, $4,000,000,000: *Provided,* That the amount of contract authorizations contained in prior acts for ship construction and facilities incident thereto is hereby increased by $5,250,000,000 (toward which $3,076,280,455 is included to the amount appropriated herein): *Provided further,* That without regard to the limitations imposed thereon in the Independent Offices Appropriation Act, 1943, the Commission is hereby authorized to incur obligations for administrative expenses, including the objects specified in such Appropriation Act, during the fiscal year 1943, of not to exceed $16,625,000.

An amendment was offered, against which a point of order was made: (9)

Amendment offered by Mr. [Carl] Vinson of Georgia: Page 11, line 4, before the word "*Provided*", insert the following: "*Provided further,* That no funds appropriated under this act shall be available for the construction or acquisition and conversion of any vessel for use as a naval auxiliary which is not constructed or acquired and converted on a reimbursable basis from funds appropriated to the Navy Department pursuant to an act authorizing the construction or acquisition and conversion of auxiliary vessels for the Navy Department, and."

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, I raise a point of order against the amendment. . . .

MR. VINSON of Georgia: Mr. Chairman, this is on the point or order. I

8. 89 CONG. REC. 1359, 1360, 78th Cong. 1st Sess.

9. *Id.* at pp. 1362, 1363.