

ties on the executive branch of the Government.

The Chair has had an opportunity to reread the language of the amendment and to refer to the precedents applicable, in the opinion of the Chair, thereto. It is the opinion of this occupant of the chair that the amendment offered by the gentleman from Delaware is, in fact, a limitation on the appropriations appropriated in this act, and while it may be argued that the limitation imposed causes or results in additional burdens on the executive branch, in the opinion of this occupant of the chair, that is normal and reasonable to expect in the carrying out of the limitation.

Therefore, the Chair is constrained to overrule the point of order.

The point of order is overruled.

***Prohibiting Funds for Contracts Containing Specified Clause***

***Conditions for Dispute Settlement***

**§ 71.5 Language in an appropriation bill providing that no funds in the bill shall be used for the purpose of entering into contracts containing a certain condition was held to be a proper limitation restricting the availability of funds and in order.**

On Apr. 9, 1952,<sup>(15)</sup> the Committee of the Whole was consid-

15. 98 CONG. REC. 3891, 82d Cong. 2d Sess.

ering H.R. 7391, a Department of Defense appropriation bill. The Clerk read as follows:

Sec. 635. No funds contained in this act shall be used for the purpose of entering into contracts containing article 15 of the Standard Government Contract, which reads as follows:

“Disputes: Except as otherwise specifically provided in this contract, all disputes concerning questions of fact arising under this contract shall be decided by the contracting officer subject to written appeal by the contractor within 30 days to the head of the department concerned or his duly authorized representative, whose decision shall be final and conclusive upon the parties thereto. In the meantime the contractor shall diligently proceed with the work as directed.”

MR. [OVERTON] BROOKS [of Louisiana]: Mr. Chairman, I make a point of order against the language in Section 365 on the ground that it is legislation on an appropriation bill.

THE CHAIRMAN:<sup>(16)</sup> If no one desires to be heard on the point of order, the Chair is ready to rule. The Chair holds, after careful consideration of the paragraph to which the gentleman from Louisiana makes a point of order, that the language is a limitation on an appropriation bill and therefore overrules the point of order.

**§ 72. District of Columbia**

***Public Assistance; Apportionment to Escape Deficiency***

**§ 72.1 An amendment to the District of Columbia appro-**

16. James W. Trimble (Ark.).

**priation bill providing that no part of the appropriation for public assistance shall be expended in such a manner as to require a deficiency to supplement the appropriation was held to be a proper limitation and in order as not changing the law 31 USC §665(c) (see Revised Statutes §3679) already requiring expenditures in such manner.**

On Feb. 1, 1938,<sup>(17)</sup> the Committee of the Whole was considering H.R. 9181. The Clerk read as follows, and proceedings ensued as indicated below:

PUBLIC ASSISTANCE

For the purpose of affording relief to residents of the District of Columbia who are unemployed or otherwise in distress because of the existing emergency, to be expended by the Board of Public Welfare of the District of Columbia by employment and direct relief, in the discretion of the Board of Commissioners and under rules and regulations to be prescribed by the board and without regard to the provisions of any other law, payable from the revenues of the District of Columbia, \$900,000, and not to exceed 7½ percent of this appropriation and of Federal grants reimbursed under this appropriation shall be expended for personal services: *Provided* That all auditing, disbursing, and accounting for funds administered through the

17. 83 CONG. REC. 1364, 75th Cong. 3d Sess.

Public Assistance Division of the Board of Public Welfare, including all employees engaged in such work and records relating thereto, shall be under the supervision and control of the Auditor of the District of Columbia: *Provided further*, That this appropriation shall be so apportioned and distributed by the Commissioners over the fiscal year ending June 30, 1939, and shall be so administered, during such fiscal year, as to constitute the total amount that will be utilized during such fiscal year for such purposes: *Provided further*, That not more than \$75 per month shall be paid therefrom to any one family. . . .

MR. [ROSS A.] COLLINS [of Mississippi]: Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. Collins: On page 58, line 2, after the colon, insert "*Provided*, That no part of this appropriation shall be expended in such a manner as to require a deficiency to supplement such appropriation."

MR. [GERALD J.] BOILEAU [of Wisconsin]: Mr. Chairman, a point of order.

THE CHAIRMAN:<sup>(18)</sup> The gentleman from Wisconsin [Mr. Boileau] will state the point of order.

MR. BOILEAU: Mr. Chairman, I make the point of order that the amendment offered by the gentleman from Mississippi [Mr. Collins] would be legislation on an appropriation bill and therefore not in order. The same argument and the same reasons would apply to this amendment as to the former pro-

18. William J. Driver (Ark.).

viso which was stricken. It is legislation on an appropriation bill.

THE CHAIRMAN: The Chair is ready to rule.

The Chair has examined the amendment carefully and is of the opinion this is a limitation; therefore the point of order is overruled.<sup>(19)</sup>

### *Segregation*

**§ 72.2 An amendment to a District of Columbia appropriation bill providing that no part of the money contained therein should be used for 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 was held a proper limitation restricting the availability of funds and therefore in order.**

19. The amendment was in fact in conformity with existing law [see 31 USC §665(c)], which required expenditures to be carried out in the manner described in the amendment.

On Apr. 5, 1946,<sup>(20)</sup> 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:<sup>(1)</sup> 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

20. 92 CONG. REC. 3227-29, 79th Cong. 2d Sess.

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

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, 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. . . .

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. . . .

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.

### *Teachers Doing Clerical Work*

**§ 72.3 An amendment to a District of Columbia appropriation bill providing that no part of an appropriation shall be used to pay the salary of any teacher performing any clerical work other than that necessary or incidental to the classroom teaching assignments was held to be a proper limitation and in order.**

On Apr. 2, 1937,<sup>(2)</sup> the Committee of the Whole was considering provisions of H.R. 5996, relating to appropriations for personal services of teachers. An amendment was offered:

MR. [ROSS A.] COLLINS [of Mississippi]: Mr. Chairman, I offer an amendment, which is at the desk.

The Clerk read as follows:

Amendment offered by Mr. Collins: On page 25, line 3, after the word "grades" insert "*Provided, That no part of this appropriation shall be used to pay the salary of any teacher performing any clerical work other than that necessary or incidental to the classroom teaching assignments.*"

MR. [JACK] NICHOLS [of Oklahoma]: Mr. Chairman, I raise a point of order to that amendment for the same reason.<sup>(3)</sup> The existing law today says

2. 81 CONG. REC. 3106, 3107, 75th Cong. 1st Sess.

3. The Chairman had just ruled out of order a provision in the bill that

nothing about clerical work being done by teachers. This amendment, of course, is introduced for the purpose of preventing teachers from doing any clerical work. Even though it places a limitation on some clerical work that they may be doing, it is contrary to existing law and the point of order would lie.

THE CHAIRMAN:<sup>(4)</sup> Does the gentleman from Mississippi desire to be heard on the point of order?

MR. COLLINS: I do not, Mr. Chairman.

THE CHAIRMAN: The amendment here offered by the gentleman from Mississippi provides that no part of this appropriation shall be used to pay the salary of any teacher performing any clerical work other than that necessary or incidental to the regular classroom teaching assignment.

The Chair is of opinion that this amendment in the form presented is very clearly a limitation and retrenchment of expenses, that it is germane, and that the point of order should be overruled.

### *Airport Access Road*

#### **§ 72.4 To a bill appropriating funds for an additional Washington, D.C. airport, an amendment placing a limit on the amount of the appropriation which may be used for the construction of an au-**

“teachers shall not perform any clerical work except that which is necessary or incidental to their regular classroom teaching assignments.”

4. Jere Cooper (Tenn.).

#### **thorized access road was held to be a proper limitation and in order.**

On June 29, 1959,<sup>(5)</sup> the Committee of the Whole was considering H.R. 7978, a supplemental appropriation bill. The Clerk read as follows:

Amendment offered by Mr. [Albert] Thomas [of Texas]: On page 3, line 6, after the word “expended,” insert “provided that not to exceed \$400,000 of the foregoing appropriation may be used for an access road north from the airport.”

MR. [H.R.] GROSS [of Iowa]: Mr. Chairman, I make a point of order against the amendment on the ground that it is legislation on an appropriation bill.

THE CHAIRMAN:<sup>(6)</sup> Does the gentleman from Texas desire to be heard on the point of order?

MR. THOMAS: Mr. Chairman, we think the amendment cures the objection raised by the distinguished gentleman from Iowa. We think this one is purely a straight limitation. It requires no outside effort on the part of anybody. . . .

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

The Chair is constrained to hold that inasmuch as the access roads were authorized by legislation creating the airport and that the amount of \$400,000 is a limitation on the purposes for which funds may be used, that it is

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

6. Paul J. Kilday (Tex.).

germane to the bill and is not legislation.

The Chair overrules the point of order.

### *Personal Services*

#### **§ 72.5 Language in the District of Columbia appropriation bill appropriating for personal services and providing that no other appropriation made in the bill would be available for the employment of additional assistant engineers or watchmen for the care of the district buildings was held authorized by law and in order.**

On Jan. 31, 1938,<sup>(7)</sup> the Committee of the Whole was considering H.R. 9181, the District of Columbia appropriation bill for 1939. At one point the Clerk read as follows, and proceedings ensued as indicated below:

For personal services, including temporary labor, and service of cleaners as necessary at not to exceed 48 cents per hour, \$129,000: *Provided*, That no other appropriation made in this act shall be available for the employment of additional assistant engineers or watchmen for the care of the District buildings.

MR. [BYRON B.] HARLAN [of Ohio]: Mr. Chairman, I wish to make a point of order against the proviso in this

7. 83 CONG. REC. 1303, 1304, 75th Cong. 3d Sess.

paragraph, but first I wish to raise a point of order as to the entire paragraph. . . .

THE CHAIRMAN:<sup>(8)</sup> The Chair is ready to rule. In the pending appropriation bill this proviso is found on page 4, line 15, with respect to the care of District buildings:

*Provided*, That no other appropriation made in this act shall be available for the employment of additional assistant engineers or watchmen for the care of the District Building.

To that proviso the gentleman from Ohio [Mr. Harlan] directs a point of order upon the ground that the proviso is in the nature of legislation which is not authorized by law.

MR. [MILLARD F.] CALDWELL [of Florida]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. CALDWELL: May I ask whether the point of order was not later changed from the particular language referred to to the entire section?

THE CHAIRMAN: The Chair will reach that in a moment. The Chair is now directing his attention to the proviso because the gentleman from Ohio [Mr. Harlan], the gentleman from Mississippi [Mr. Collins], and the gentleman from Oklahoma [Mr. Nichols] directed their arguments largely to that proviso.

The authority for making appropriations for the care of District buildings is found in Fiftieth Statutes at Large, page 377, in this language:

*Provided*, That all buildings belonging to the District of Columbia

8. William J. Driver (Ark.).

shall be under the jurisdiction and control of the Commissioners of the District.

This proviso does not in any manner seek to take from the District Commissioners their authority as custodians of the buildings under their duties and responsibilities as Commissioners of the District. This proviso in no manner contravenes the language of this positive law. It is more in the nature of a limitation upon the appropriation than a contravention or change of existing law.

MR. [JACK] NICHOLS [of Oklahoma]: Mr. Chairman, will the Chair permit an interruption?

THE CHAIRMAN: The Chair will hear the gentleman.

MR. NICHOLS: The point is, Mr. Chairman, that before this proviso the existing law was that all of the buildings in the District of Columbia should be under the control of the Commissioners of the District, except certain buildings included in which was the court building by specific provision. That was under the control of the judges of the courts. This proviso wipes out the control of the judges over this court building and places the control in the Commissioners of the District of Columbia. To this extent the proviso does change existing law.

THE CHAIRMAN: The Chair will state to the gentleman from Oklahoma that the feature to which the Chair is especially addressing the ruling is whether this is a change of existing law. The gentleman from Ohio bases his point of order on the ground that this is a change of the law affecting the custody of the building according to the statute the Chair just quoted. The proviso

under consideration in no manner changes existing law but is merely a limitation on an appropriation. The Chair so holding must necessarily overrule the point of order.

The gentleman from Ohio also directed the point of order against the paragraph the first portion of which includes this language:

For personal services, including temporary labor, and service of cleaners as necessary at not to exceed 48 cents per hour, \$129,000.

Standing alone, as a matter of course, this language is immune from a point of order because it is solely an appropriation for personal services, and so forth. If, therefore, the argument directed to the proviso goes down, necessarily the point of order against the paragraph as a whole must go down.

The Chair overrules the point of order directed against the paragraph.

## **§ 73. Education and Community Service; Health; Labor**

### ***Educational Assistance to Federally Impacted Areas***

**§ 73.1 To a general appropriation bill providing funds for educational assistance to "federally impacted areas," an amendment providing that the appropriation shall not be available for a certain percentage of children of parents who live or work on**