upon the executive department for extra duties; and does it not refer to outside matters? . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from Iowa [Mr. Gross] offers an amendment to this paragraph, to which the gentleman from New York [Mr. Rooney] has made the point of order that it is legislation on an appropriation bill. The Chair has carefully read the bill and observes that the very purpose of the amendment is a limitation. The Chair, therefore, overrules the point of order.

United Nations Dues in Arrears

§ 75.8 To a bill appropriating funds for foreign assistance programs, an amendment providing in part that none of the funds therein may be used to pay dues or assessments of members of the United Nations was held to be a proper limitation restricting the availability of funds and in order.

On Sept. 20, 1962,[20] the Committee of the Whole was considering H.R. 13172, a foreign assistance appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. [A. Paul] Kitchin [of North Carolina]: Add a new section to the title on page 8, after line 4, to read:

"Sec. 113. 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 pay in whole or in part any assessments, arrearages or dues of any member of the United Nations.

Mr. [WAYNE L.] HAYS [of Ohio]: Mr. Chairman, I make the point of order that this is legislation on an appropriation bill. . . .

THE CHAIRMAN:[1] The Chair has had an opportunity to read the language of the amendment offered by the gentleman from North Carolina (Mr. Kitchin) to which the gentleman from Ohio (Mr. Hays) makes a point of order.

The language of the gentleman's amendment is a limitation upon the use of funds contained in the bill and is, therefore, in order as a limitation. The Chair overrules the point of order.

§ 76. Interior

Reclamation Projects; Equating Expenses to Repayments

§ 76.1 A provision that no part of an appropriation shall be available for operation and maintenance of any reclamation projects in excess of the amount of repayments made pursuant to law during a current fiscal year was held to be in order as a limitation

20. 108 CONG. REC. 20187, 20188, 87th Cong. 2d Sess.

1. Wilbur D. Mills (Ark.).

restricting the availability of funds and not requiring the use of repayments.

On May 1, 1951,[2] the Committee of the Whole was considering H.R. 3790, an Interior Department appropriation bill. A point of order against an amendment to the bill was overruled as indicated below.

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and of other facilities, as authorized by law . . . $15,385,000, of which not to exceed $12,883,900 shall be derived from the reclamation fund and not to exceed $1,671,000 shall be derived from the Colorado River dam fund. . . .

Mr. John Phillips, of California, offered an amendment, which was read. The following proceedings then took place:

The Clerk read as follows:

Amendment offered by Mr. [John R.] Murdock [of Arizona] to the amendment offered by Mr. Phillips: On page 16, at the end of the amendment offered by Mr. Phillips insert: "*Provided further*, That no part of this appropriation shall be available for operation and maintenance of any irrigation works in excess of repayments during the current fiscal year pursuant to law."

MR. PHILLIPS: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN:[3] The gentleman will state the point of order.

MR. PHILLIPS: Mr. Chairman, the amendment is in effect legislation on an appropriation bill, and therefore a violation of rule 21.

I make the further point of order, Mr. Chairman, that the amendment offered by the gentleman from Arizona to my amendment purports to be a limitation but is in effect an authorization. There is no authorization at the present time for expenditures, from the funds to which the gentleman refers, for operation and maintenance of these certain projects. Therefore, if the gentleman from Arizona offers an amendment which says, "You must not spend more than that amount of money," then it is in effect not a limitation but an authorization for the expenditure of money to that point. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from Arizona [Mr. Murdock] offers an amendment which the Clerk has reported to the amendment offered by the gentleman from California (Mr. Phillips). The gentleman from California makes a point of order against the amendment for the reasons which he has stated.

The Chair has had an opportunity to examine the amendment offered by the gentleman from Arizona to the amendment offered by the gentleman from California. The Chair has concluded that the amendment is clearly a limitation, negative in character on an appropriation bill. The amendment limits in a negative manner the amount which can be spent only during the fiscal year covered by the bill presently before the Committee.

2. 97 CONG. REC. 4655, 4656, 82d Cong. 1st Sess.

3. Wilbur D. Mills (Ark.).

The device by which the limitation of the amount is determined is the extent to which the law is complied with. It does not add to the requirements of any law; it does not require compliance with any law; all it does is to say that you may spend this appropriation up to the amount that the law requiring repayment is complied with. The amendment therefore is in order and the Chair overrules the point of order made by the gentleman from California.

Qualification of Employees in Bureau of Reclamation

§ 76.2 An amendment to the Interior Department appropriation bill proposing that no part of the appropriation for the Bureau of Reclamation shall be used for salaries of persons in certain positions who are not qualified engineers with at least 10 years' experience was held to be a proper limitation and in order.

On May 27, 1948,[4] the Committee of the Whole was considering H.R. 6705. An amendment was offered by Mr. Alfred J. Elliott, of California:

Page 38, line 21, insert after the colon the following: "*Provided further,* That no part of any appropriation for the Bureau of Reclamation contained in this act shall be used for the salaries and expenses of a person in any of the following positions in the Bureau of Reclamation, or of any person who performs the duties of any such position, who is not a qualified engineer with at least 10 years' engineering and administrative experience: (1) Commissioner of Reclamation; (2) Assistant Commissioner of Reclamation; and (3) Regional Director of Reclamation."

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, a point of order.

THE CHAIRMAN:[5] The gentleman will state it.

MR. MCCORMACK: Mr. Chairman, the point of order is that it is legislation upon an appropriation bill, not a limitation. The mere use of the words "*Provided further*" does not mean it makes everything in order. This is legislation relating to the requirements that must be met by one person or certain employees of the Bureau of Reclamation before they may hold office or be appointed.

THE CHAIRMAN: Does the gentleman from California desire to be heard?

MR. ELLIOTT: NO.

THE CHAIRMAN: The Chair is of the opinion that the amendment is a limitation, that it refers to a part of this appropriation; therefore overrules the point of order.

Territories and Former Possessions

§ 76.3 A provision preventing the expenditure of certain funds appropriated for sala-

4. 94 CONG. REC. 6630, 80th Cong. 2d Sess.

5. Carl T. Curtis (Nebr.).

ries, administrative expenses, travel, or other purposes in any territory where refunds of excise-tax collections were being made to such territory was held to be a proper limitation restricting the availability of funds and in order on an appropriation bill.

On Mar. 7, 1940,[6] the Committee of the Whole was considering H.R. 8745, an Interior Department appropriation. The Clerk read as follows:

Amendment offered by Mr. [John G.] Alexander [of Minnesota]: On page 143, after line 14, insert a new section to be known as section 6, to read as follows:

"No funds appropriated herein shall be expended for salaries, administrative expenses, travel, or other purposes in any Territory or former possession where refunds of excise-tax collections are being made to such Territory or former possession."

MR. [JED] Johnson of Oklahoma: Mr. Chairman, I make the point of order against the amendment that it constitutes legislation on an appropriation bill. . . .

MR. ALEXANDER: Mr. Chairman, it does not seem to me that this is legislation that comes within the previous rulings of the Chair, because it is a limitation and therefore comes under the Holman rule. . . .

MR. JOHNSON of Oklahoma: Mr. Chairman, this is not germane because it refers to appropriations not covered by this bill. . . .

The Chairman:[7] The Chair invites attention to the fact that the bill does carry certain appropriations for the Philippine Islands, the Virgin Islands, and insular possessions. The Chair therefore is under the impression that the amendment is germane to the provisons of the pending bill, and the Chair is of the opinion that the amendment offered is in the form of a limitation and would be in order.

The point of order is overruled.

National Park Roads

§ 76.4 In an appropriation bill a provision that none of the funds in the bill shall be used for maintenance of roads, other than parkways, outside the boundaries of national parks was held in order as a limitation restricting the availability of funds.

On Apr. 6, 1954,[8] the Committee of the Whole was considering H.R. 8680, an Interior Department appropriation. The Clerk read as follows:

MAINTENANCE AND REHABILITATION OF PHYSICAL FACILITIES

For expenses necessary for the operation, maintenance, and rehabilitation of roads (including furnishing special road maintenance service to defense

6. 86 CONG. REC. 2542, 2543, 76th Cong. 3d Sess.

7. Jere Cooper (Tenn.).

8. 100 CONG. REC. 4721, 83d Cong. 2d Sess.

trucking permittees on a reimbursable basis), trails, buildings, utilities, and other physical facilities essential to the operation of areas administered pursuant to law by the National Park Service, $8 million: *Provided* That none of the funds herein appropriated shall be used for maintenance of roads, other than national parkways, outside the boundaries of national parks and monuments.

MR. [WESLEY A.] D'EWART [of Montana]: Mr. Chairman, I make a point of order against the language on page 24, starting with the word "*Provided*" on line 11 and ending on line 14. . . .

MR. [BEN F.] JENSEN [of Iowa]: Even though such expenditures are authorized by law, the fact still remains that you can provide a limitation on an appropriation bill, and I so contend. . . .

THE CHAIRMAN:[9] The Chair is ready to rule. The Chair has carefully studied the point of order submitted by the gentleman from Montana (Mr. D'Ewart). The Congress, although it is authorized to make appropriations, can also deny the use of such appropriations by proper limitations.

The Chair feels that this is a limitation and not legislation upon an appropriation bill, and therefore overrules the point of order.

Limiting Draft Deferments

§ 76.5 An amendment to the Interior Department appropriation bill providing that none of the funds therein shall be used to pay the salary of any person who is qualified physically for military duty and who received a deferment under specified circumstances was held a proper limitation and in order.

On Apr. 27, 1944,[10] the Committee of the Whole was considering H.R. 4679. The following proceedings took place:

Amendment offered by MR. [JAMES W.] MOTT [of Oregon]: On page 107, after section 10, insert a new section, numbered section 11, as follows:

"Sec. 11. No part of the money appropriated in this act shall be used to pay the salary of any male person between the ages of 18 and 30 years who is physically and mentally qualified for military duty, as shown by his selective-service classification, and who has been deferred from military duty, either at his own request or the request of the Secretary of the Interior, for reasons other than dependency or as necessary to war production, and who, 30 days after the approval of this act, still retains such deferment."

MR. [JAMES M.] FITZPATRICK [of New York]: Mr. Chairman, I make a point of order against the amendment that it is legislation on an appropriation bill. . . .

The Chairman:[11] The Chair is ready to rule. In the opinion of the Chair the amendment is a limitation, and the point of order is overruled.

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9. Charles B. Hoeven (Iowa).

10. 90 CONG. REC. 3757, 78th Cong. 2d Sess.

11. John J. Delaney (N.Y.).

Limitation Applicable on Condition Subsequent—Unconstitutionality of Authorization Law

§ 76.6 To a paragraph appropriating money for the National Bituminous Coal Commission, an amendment providing that if the act appropriated for is declared unconstitutional by the Supreme Court, none of the money provided in the bill shall thereafter be spent, was held in order as a limitation.

On Jan. 24, 1936,[12] the Committee of the Whole was considering H.R. 10464, a supplemental appropriation bill. The following proceedings took place:

NATIONAL BITUMINOUS COAL COMMISSION

Salaries and expenses, National Bituminous Coal Commission: For all necessary expenditures of the National Bituminous Coal Commission in performing the duties imposed upon said Commission by the Bituminous Coal Conservation Act of 1935, including personal services and rent in the District of Columbia and elsewhere, traveling expenses, contract stenographic reporting services, stationery and office supplies and equipment, printing and binding, and not to exceed $2,500 for newspapers, reference books, and periodicals, fiscal year 1936, $400,000: *Provided*, That this appropriation shall be available for obligations incurred on and after September 21, 1935, including reimbursement to other appropriations of the Department of the Interior for obligations incurred on account of said Commission. . . .

MR. [ROBERT L.] BACON [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bacon: Page 22, line 11, after the word "Commission", insert "*Provided*, That if the Bituminous Coal Conservation Act of 1935 is declared to be unconstitutional by the Supreme Court of the United States, no money herein provided shall thereafter be spent, and all money herein appropriated and unexpended shall be immediately covered back into the Treasury."

MR. [CLIFTON A.] WOODRUM [of Virginia]: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN:[13] The gentleman will state his point of order.

MR. WOODRUM: This seems to me to be legislation undertaking to effect a limitation. If, of course, the Supreme Court declares the act unconstitutional expenditures under it will cease and no money may thereafter be expended under the act.

MR. BACON: Mr. Chairman, it seems to me this is an amendment that comes within the Holman rule, that it is a limitation saving money for the Treasury of the United States.

MR. WOODRUM: But it is made contingent on something that may or may not happen.

12. 80 CONG. REC. 994, 996, 74th Cong. 2d Sess.

13. Jere Cooper (Tenn.).

MR. BACON: Yes; it is made contingent on something happening.

MR. [KENT E.] KELLER [of Minnesota]: Mr. Chairman, if the gentleman will yield, is the gentleman suggesting that the Congress should hint the unconstitutionality of a law before it is passed on by the Supreme Court?

THE CHAIRMAN: The Chair is of the opinion that the Holman rule does not necessarily apply. The Chair is of the opinion, however, that the amendment is a limitation. The purport of the amendment taken as a whole impresses the Chair as being a limitation.

MR. WOODRUM: May I call the attention of the Chair to the fact that the amendment means hereafter, any time in the future, any appropriation that hereafter may be made, and that it is not confined to the appropriation in this bill?

THE CHAIRMAN: Yes; that is the very point on which the Chair's decision turns. The Chair interprets the words used in the amendment to mean that it refers to the appropriation provided in this bill. It would, therefore, be a limitation on the appropriation here provided. The Chair, therefore, overrules the point of order.

Consultant Salaries

§ 76.7 A provision in a general appropriation bill authorizing expenditures of funds provided in the bill for temporary services of consultants at rates not in excess of $100 per day was held to be in order as a limitation which did not set rates of pay but merely restricted use of funds in the bill.

On Apr. 24, 1951,[14] The Committee of the Whole was considering H.R. 3790, an Interior Department appropriation bill. The following proceedings took place:

ADMINISTRATIVE PROVISIONS

Appropriations of the Bonneville Power Administration shall be available to carry out all the duties imposed upon the Administrator pursuant to law, including not to exceed $40,000 for services as authorized by section 15 of the act of August 2, 1946 (5 U.S.C. 55a), including such services at rates not to exceed $100 per diem for individuals; purchase of not to exceed 16 passenger motor vehicles of which 12 shall be for replacement only; and purchase (not to exceed 2) of aircraft. . . .

MR. [Edward H.] REES of Kansas: Mr. Chairman, I make a point of order against the language appearing in the bill beginning with line 24, page 5, and continuing through to line 12, page 6, on the ground it is legislation on an appropriation bill. . . .

MR. [Henry M.] JACKSON of Washington: Mr. Chairman, all of the language contained in the point of order raised by the gentleman from Kansas is authorized by law under the Bonneville Project Act and other acts and amendments to the original Bonneville Project Act and may be found in Sixteenth United States Code, section 825. For example, there is contained in the area covered by the gentleman's

14. 97 CONG. REC. 4307, 82d Cong. 1st Sess.

point of order the authority with reference to the purchase of automobiles. This is contained in general authorizing legislation that is applicable to all departments of Government.

The Chairman:[15] Will the gentleman from Kansas be more specific with reference to the language that he deems to be legislation on an appropriation bill?

MR. REES of Kansas: Mr. Chairman, the language in line 4, beginning with the word "including" and ending with the word "individuals" in line 5 is certainly without authorization and for that reason the entire paragraph, in my judgment, is legislation on an appropriation bill and not authorized.

MR. JACKSON of Washington: Mr. Chairman, in response to the gentleman's contention at that point, may I say that Public Law 600 of the Seventy-ninth Congress specifically authorizes the Department to do this very thing.

THE CHAIRMAN: It authorizes the department to pay at the rate of $100 per diem?

MR. JACKSON of Washington: That is right.

THE CHAIRMAN: Will the gentleman from Washington explain to the Chair the reason for carrying it in the appropriation bill itself, if it is authorized?

MR. JACKSON of Washington: Unless the Committee on Appropriations each year authorizes a specific amount, they have no authority to spend any money for this purpose. In other words, existing law gives the department the authority to pay per diem expenses to individuals but the amount as to what should be paid is left to the discretion of the Committee on Appropriations, and the committee from time to time has changed the amount. I will be glad to read from Fifth United States Code, section 55a, as follows:

> The head of any department, when authorized in an appropriation or other act, may procure the temporary (not in excess of 1 year) or intermittent services of experts or consultants or organizations thereof.

I think that section clearly leaves it to Congress, and Congress has to act each year for the simple reason that the authority to make the payment is limited to a maximum of 1 year.

MR. REES of Kansas: Mr. Chairman, may I add this further? It would occur to me then it is an attempt by law to change the Rules of the House and that certainly cannot be done. So, we still have legislation on an appropriation bill.

THE CHAIRMAN: For the information of the gentleman from Kansas the Chair will read from the United States Code, title 5, on page 79, section 35a:

> Temporary employment of experts or consultants; rate of compensation:
>
> The head of any department, when authorized in an appropriation or other act, may procure the temporary (not in excess of 1 year) or intermittent services of experts or consultants or organizations thereof, including stenographic reporting services, by contract and in such cases such service shall be without regard to the civil service and classification laws (but as to agencies subject to sections . . . at rates not in excess of the per diem equivalent of the highest rate payable under said sections, unless other rates are specifically provided in the appropriation or other law) and except in the

15. Wilbur D. Mills (Ark.).

case of stenographic reporting services by organizations without regard to section 5 of title 41.

MR. [JOHN] TABER [of New York]: Might I be allowed to make a suggestion, Mr. Chairman?

THE CHAIRMAN: The Chair will be pleased to hear the gentleman from New York.

MR. TABER: It is the duty of the legislative committees to bring in legislation that will fix the rate of compensation. A limitation by a Committee on Appropriations can be made restricting the amount below the statutory amount. But when you come by a statute to authorize the Committee on Appropriations to bring in legislation, it is utterly void, because the rules of the House provide that the Committee on Appropriations shall not bring in legislation. This not being a limitation or anything of that kind, it is clearly legislation and not in order on this bill.

MR. JACKSON of Washington: If the Chair will permit me to speak further, of course the answer to the statement of the gentleman from New York is that the argument does not apply when the Committee on Appropriations has been authorized by another basic law, and that law itself contemplates the very possibility which has arisen here, namely, that from time to time rates would have to be fixed each year as to the amount that should be paid on a per diem basis. The argument the gentleman from New York has advanced has no application in this instance because specific authorizing legislation has covered this part of it.

THE CHAIRMAN: As the Chair understands, there is no per diem ceiling fixed in the provision to which the Chair has alluded. The gentleman from New York mentions a ceiling, and then the authority of the committee to place a limitation under that ceiling. Does the gentleman from New York know of some ceiling provided in law for per diem pay?

MR. TABER: I do not, but there is legislation to fix the rate of pay, and the authority contained in the legislation would not give the Committee on Appropriations jurisdiction because the jurisdiction of the committee is governed by the rules of the House. You cannot change the rules of the House by legislation.

THE CHAIRMAN: The gentleman from New York is correct that you cannot change the rules of the House by legislation, but the language referred to by the Chair seems to authorize beyond any doubt the per diem payment by this service to individuals. There does not appear to be any ceiling fixed upon what the payment per day may be. So it appears to the Chair that the language contained in the bill in line 4 through "individuals" in line 5 on page 6 is actually in the form of a limitation. Therefore, the Chair overrules the point of order made by the gentleman from Kansas.

Parliamentarian's Note: The Chair by citing the above statute was not ruling that the language of that law specifically permitted the Committee on Appropriations in a general appropriation bill to fix per diem rates of pay—rather that a negative limitation setting a ceiling on use of those funds for per diem pay was in order under Rule XXI clause 2, as a limitation.

Reindeer Industry

§ 76.8 To an appropriation for the purchase of reindeer, an amendment limiting the purchase to an average price of $4 per head was held to be a limitation restricting the availability of funds in the bill and in order.

On Mar. 15, 1939,[16] the Committee of the Whole was considering H.R. 4852, an Interior Department appropriation. The Clerk read as follows, and proceedings ensued as indicated below:

> Reindeer industry, Alaska: For the purchase, in such manner as the Secretary of the Interior shall deem advisable and without regard to sections 3709 and 3744 of the Revised Statutes, of reindeer, abattoirs, cold-storage plants . . . and communication and other equipment, owned by nonnatives in Alaska, as authorized by the act of September 1, 1937 (50 Stat. 900), $820,000 . . . *Provided*, That under this appropriation not exceeding an average of $4 per head shall be paid for reindeer purchased from nonnative owners: *Provided further*, That the foregoing limitation shall not apply to the purchase of reindeer located on Nunivak Island.
>
> MR. [JOHN C.] SCHAFER of Wisconsin: Mr. Chairman, I make the point of order against the paragraph on the ground that it is legislation on an appropriation bill unauthorized by law. In fact, the language clearly indicates that it repeals the specific provisions of existing law as incorporated in sections 3709 and 3744 of the Revised Statutes.
>
> THE CHAIRMAN:[17] Does the gentleman from Oklahoma desire to be heard?
>
> MR. [JED] JOHNSON of Oklahoma: No; I concede the point of order.
>
> THE CHAIRMAN: The point of order is sustained.
>
> MR. JOHNSON of Oklahoma: Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Johnson of Oklahoma: Page 60, line 23, insert a new paragraph, as follows:
>
> "Reindeer industry, Alaska: For the purchase, in such manner as the Secretary of the Interior shall deem advisable, of reindeer . . . as authorized by the act of September 1, 1937 (50 Stat. 900), $820,000 . . . *Provided*, That under this appropriation not exceeding an average of $4 per head shall be paid for reindeer purchased from nonnative owners: *Provided further*, That the foregoing limitation shall not apply to the purchase of reindeer located on Nunivak Island."
>
> MR. SCHAFER of Wisconsin: Mr. Chairman, I make the point of order against the amendment on the ground that it is legislation on an appropriation bill, unauthorized by law, and it delegates to the Department additional authority which it does not now have. . . .
>
> MR. JOHNSON of Oklahoma: Mr. Chairman, I feel that it is unnecessary

16. 84 CONG. REC. 2789, 2790, 76th Cong. 1st Sess.

17. Frank H. Buck (Calif.).

to make an extended argument, as I am sure the Chair is fully advised and ready to rule. Certainly there is no question but that this item is clearly authorized by existing law. Authority will be found in the act of September 1, 1937, Fiftieth Statutes, page 900. It plainly authorizes an appropriation of $2,000,000. I call the attention of the Chair to section 16 which reads as follows:

> The sum of $2,000,000 is hereby authorized to be appropriated for the use of the Secretary of the Interior in carrying out the provisions of this act.

MR. [HAROLD] KNUTSON [of Minnesota]: What more authority do you want? That is enough.

MR. [ALBERT E.] CARTER [of California]: Mr. Chairman, I would like to be heard on the point of order.

THE CHAIRMAN: The gentleman from California is recognized.

MR. CARTER: The opening sentence of the amendment reads:

> For the purchase in such manner as the Secretary of the Interior shall deem advisable.

Now, certainly there is nothing in the statute that gives the Secretary of the Interior that much discretion. In addition to that, Mr. Chairman, I desire to call the attention of the Chair to the proviso in the amendment which reads as the proviso in the bill, which is clearly legislation. Therefore I say the point of order must be sustained against the proposed amendment.

THE CHAIRMAN: The Chair is ready to rule. The act of September 1, 1937, on which the appropriation contained in this paragraph is based, reads in part as follows:

> Sec. 2. The Secretary of the Interior is hereby authorized and directed to acquire, in the name of the United States, by purchase or other lawful means, including exercises of power of eminent domain, for and on behalf of the Eskimos and other natives of Alaska, reindeer, reindeer range, equipment, abattoirs, cold-storage plants, warehouses and other property, real or personal, the acquisition of which he determines to be necessary to the effectuation of the purposes of this act.

This seems to be a broad, all-inclusive grant of power. The language used in the amendment offered by the gentleman from Oklahoma merely restates, in slightly different words, the authorization contained in the act of September 1, 1937.

The proviso to which the gentleman from California (Mr. Carter) refers appears to the Chair to be nothing more than a limitation, in the strictest sense of the word.

For these reasons the Chair overrules both points of order.

§ 76.9 A direction in law to an executive official to acquire, by purchase or otherwise, "necessary" cold storage plants and other equipment for purposes of developing the Alaskan reindeer industry, was held to permit an appropriation for the object to be implemented in such manner as the official shall determine.

The proceedings of Mar. 15, 1939,[18] are discussed in Sec. 76.8, supra. At

18. 84 CONG. REC. 2789, 2790, 76th Cong. 1st Sess.

issue was the amendment offered by Mr. Jed Johnson, of Oklahoma.

§ 77. Treasury and Post Office

Mail Seizure

§ 77.1 An amendment to a Treasury and Post Office Departments appropriation bill, providing that no funds therein may be used for the seizure of mail (in connection with income tax investigations) without a search warrant was held to be a limitation and in order.

On Apr. 5, 1965,[19] The Committee of the Whole was considering H.R. 7060. The Clerk read as follows, and proceedings ensued as indicated below:

> Amendment offered by Mr. [Durward G.] Hall [of Missouri]: On page 8, immediately before the period in line 11, insert the following: ": *Provided*, That no appropriation made by any provision of this Act for the fiscal year ending June 30, 1966, may be used for the seizure of mail without a search warrant authorized by law in carrying out the activities of the United States in connection with the seizure of property for collection of taxes due to the United States".
>
> MR. [THOMAS J.] STEED [of Oklahoma]: Mr. Chairman, I reserve a point of order on this amendment.
>
> THE CHAIRMAN:[20] The gentleman from Oklahoma reserves a point of order. . . .
>
> MR. STEED: Chairman, I renew my point of order against the amendment because it is not a limitation on appropriations. It requires actions by the Bureau of Internal Revenue, which can be authorized only by legislation.
>
> THE CHAIRMAN: The language is a limitation here. The Chair overrules the point of order. The point of order is not sustained.

Parliamentarian's Note: Subsequent rulings have cast some doubt on the applicability at present of the above ruling. On June 16, 1977, an amendment which prohibited the use of funds by OSHA for any inspection conducted by that agency without a search warrant based on probable cause as authorized by law was held out of order as legislation since it would impose new affirmative duties to make applications to courts, a procedure not required by statutory law or uniformly required by the federal courts. See 123 CONG. REC. 19373, 95th Cong. 1st Sess. [H.R. 7555]. If a definitive ruling by the Supreme Court had existed which required a probable cause warrant for inspections by OSHA, such ruling might, of course, have constituted a sufficient basis in law for the limitation as proposed to

19. 111 CONG. REC. 6869, 6870, 89th Cong. 1st Sess.

20. John A. Blatnik (Minn.).