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.

submit this is not legislation on an appropriation bill. It is a limitation on the money to be used in the construction of certain types of ships. . . .

MR. [W. STERLING] COLE of New York: Mr. Chairman, this appropriation bill provides money for the construction of ships by the Maritime Commission. As I understand the amendment offered by the gentleman from Georgia, it simply limits those funds as to the type of ships for which the funs might be used and is, therefore, very definitely a limitation on the appropriation itself and not legislation.

MR. [SCHUYLER OTIS] BLAND [of Virginia]: Mr. Chairman, may I be heard briefly?

THE CHAIRMAN:[10] Yes.

MR. BLAND: Mr. Chairman, the beginning of the section is that the appropriation is made to increase the construction fund established by the Merchant Marine Act, 1936, and any amendment such as proposed by the gentleman effects an amendment to the Merchant Marine Act, 1936. If legislation is brought in to accomplish the purpose which the gentleman desires, I have no objection, but I am unable and he is unable to say what effect it will have upon the fund that is provided for the work now in progress. But whether that is true or not, it would be an amendment to the construction fund provided by the Merchant Marine Act.

MR. VINSON of Georgia: Mr. Chairman, here is an authorization for the Maritime Commission to build ships, any kind of ships. We put a limitation on it and say they cannot build a certain type of ship. That certainly is not legislation. It is a limitation.

That is the whole point. . . .

THE CHAIRMAN: The amendment offered by the gentleman from Georgia [Mr. Vinson] provides for a limitation upon the appropriation contained in this bill. Therein it differs from the last amendment offered. . . .

The Chair thinks that clearly this is merely a limitation upon an appropriation, therefore overrules the point of order.

Note: This amendment would probably be ruled out of order today, because it appears to make the availability of funds contingent upon future authorizations and future appropriations. Mr. Vinson's concern is proposing the amendment seemed to be to ensure that money would not be available, from the construction fund cited in the bill, for construction of auxiliary vessels without specific authorization. He had earlier[11] offered the following amendment.

Amendment offered by Mr. Vinson of Georgia: Page 11, line 4, insert "*Provided further,* That no funds appropriation under this act or heretofore or hereafter appropriated under this heading, shall be available for the construction or acquisition and conversion of any vessels for use as a naval auxiliary, except on a reimbursable basis from funds appropriation to the Navy Department, pursuant to an act authorizing the construction or acquisition and conversion of auxiliary vessels for the Navy Department."

10. Howard W. Smith (Va.).

11. 89 CONG. REC. 1360, 78th Cong. 1st Sess.

Explaining the amendment, Mr. Vinson stated:

> Mr. Chairman, this is a very important matter, and I shall state to the Committee how it happened, how it arose. In January the Navy Department submitted to the Budget in the usual method required by the Department for clearance, a bill to authorize the construction of a million tons of auxiliary. Bear in mind that from the beginning of time down to date the Navy has always controlled what is known in the Navy as the auxiliary shipping bills. For instance, in 1941 and 1942 we authorize 2,500,000 tons of auxiliaries. In the past that authorization has been brought before the House in a separate bill from the Naval Affairs Committee, and when it becomes law, then we go to the Committee on Appropriations to get the money to carry out the authorization. When the Navy Department in January desired to build a million tons of auxiliary, what happened? The Naval budget officer from the Navy, on January 13 went before the general Budget officials and they said this:
>
> > They state that they were already giving to the Maritime Commission, Admiral Land, sufficient money to finance the building of the merchant ships which can be built according to the types which we call naval auxiliary tonnage. In addition to that, they have given and propose to continue to give the War Shipping Administration, also Admiral Land, plenty of money to convert many of the ships for Army or Navy use. The paper today states a request for $4,000,000,000 before Congress for the Maritime Commission.
>
> Here it is in the bill. Now, what does that mean? It means that if the construction of the auxiliaries for the Navy, which are composed of tankers, supply ships, repair ships, and other ships that are armed but do not carry armament, they propose by the set-up that is not being worked out with the Maritime Commission or the War Shipping Administration, to give to the Navy its auxiliaries. Now, I am opposed to the War Shipping Administration or the Maritime Commission taking the place of Congress. In other words, what is under way now is to circumvent Congress in making the authorization, the Naval Affairs Committee in presenting it to the House, and the Naval Appropriations Committee from making the appropriation. We have no objection to the Maritime Committee acting as the agent of the Navy to construct any of its auxiliaries, but we do propose to enter a vigorous protest against the Navy Department becoming the pensioner of the Maritime Commission or the War Shipping Administration.

The amendment in that instance, however, was conceded to be out of order.

Limiting Purchase of Foreign Agricultural Products if Domestic Supplies Adequate

§ 69.2 To an appropriation bill, an amendment in the form of a motion to recommit which provided that no funds should be used to purchase any foreign dairy or other competitive agricultural products produced in the

United States in sufficient quantities to meet needs, was held a limitation and in order.

On May 19, 1939,[12] the House was considering H.R. 6392, a State, Justice, and Commerce Departments and Judiciary appropriation bill. The Clerk read as follows:

MR. [CHARLES] HAWKS [Jr., of Wisconsin] moves to recommit the bill to the committee with instructions to report it back forthwith with the following amendment: At the end of the bill insert a new paragraph, as follows:

"No part of the funds appropriated in this bill shall be used for the purpose of purchasing any foreign dairy or other competitive foreign agricultural products which are not [sic] produced in the United States in sufficient quantities to meet domestic needs."

MR. THOMAS S. MCMILLAN [of South Carolina]: Mr. Speaker, I make a point of order against the motion to recommit.

THE SPEAKER:[13] The gentleman will state the point of order.

MR. THOMAS S. MCMILLAN: Mr. Speaker, I make the point of order that the motion to recommit is not in order in that it is an attempt to place legislation in an appropriation bill.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Speaker, it is a limitation on appropriations.

THE SPEAKER: The Chair is ready to rule on the point of order made by the gentleman from South Carolina.

The point of order has been made that the motion to recommit is not in order because of the fact that it sets up matters of legislation in an appropriation bill. The Chair has tried carefully to read the provisions of the motion. On a fair reading and construction of the whole motion it appears that there is nothing affirmative in the motion in the way of legislation. It appears to the Chair on the whole to be a restriction or a limitation upon the expenditure of funds.

The Chair, therefore, overrules the point of order.

More recently, a provision with a similar intent contained in H.R. 14262, the Department of Defense appropriation bill, was ruled out of order.[14] In that case, the portion of the bill in question stated:

Sec. 723. No part of any appropriation contained in this Act shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or speciality metals including stainless steel flatware, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that a satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk

12. 84 CONG. REC. 5856, 76th Cong. 1st Sess.

13. William B. Bankhead (Ala.).

14. See 122 CONG. REC. 19014, 94th Cong. 2d Sess., June 17, 1976.

blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices.

The affirmative and express duty placed on the Secretary to make the determinations described was probably a determining factor in the Chair's ruling.

Federal-aid Airports

§ 69.3 To a section of an appropriation bill providing an appropriation for the federal-aid airport program, an amendment providing that "no part of the appropriation . . . shall be used for the development of class 4 and larger airports unless approval of Congress is hereafter granted" was held to be a limitation on an appropriation bill restricting the availability of funds and in order where existing law permitted inclusion of language making that appropriation contingent upon subsequent congressional approval.

On May 15, 1947,[15] the Committee of the Whole was considering H.R. 3311, a State, Justice, and Commerce Departments and Judiciary appropriation bill. The Clerk read as follows:

Amendment offered by Mr. [Kenneth B.] Keating [of New York]: On page 49, line 2, after the word "appropriation", insert the following: "*Provided further*, That no part of the appropriation made herein shall be used for the development of class 4 and larger airports unless approval of Congress is hereafter granted.". . .

MR. [J. PERCY] PRIEST [of Tennessee]: Mr. Chairman, I make a point of order against this amendment as being legislation on an appropriation bill. . . . It seems to me that the argument with reference to the other point of order would apply here. The Administrator, on February 19, 1947, has complied with the requirement of law and has made the required report to Congress.

In reading section 8 of the act, the distinguished gentleman from New York [Mr. Keating], in commenting on the point of order made against the other amendment, it seems to me did not properly interpret the last part of section 8 of the act, and that the amendment actually would change the law by action on an appropriation bill, when the act specifically says:

> In granting any funds that thereafter may be appropriated to pay the United States' share of allowable project costs during the next fiscal year, the Administrator may consider such appropriation as granting the authority requested, unless a contrary intent shall have been manifested by the Congress by a law or by concurrent resolution.

This, it would seem to me, would be by amendment to an appropriation bill

15. 93 CONG. REC. 5379, 80th Cong. 1st Sess.

rather than by a law or by a concurrent resolution, and it would appear that the amendment is legislation on an appropriation bill.

MR. KEATING: Mr. Chairman, as indicated by the gentleman from South Dakota [Mr. Case], this is clearly simply a limitation upon the amount of an appropriation, and it seems to me to be clearly in order.

THE CHAIRMAN:[16] The Chair is of the opinion that the amendment is a limitation, and the point of order is overruled.

Parliamentarian's Note: The Chair apparently took the view that existing law [60 Stat. 174, § 8 of which was referred to by Mr. Priest, above] permitted inclusion of the language making the appropriation contingent upon subsequent congressional approval.

Public Works

§ 69.4 Language in an appropriation bill providing funds for the construction of public works and specifying that none of the funds appropriated should be used for projects not authorized by law "or which are authorized by a law limiting the amount to be appropriated therefor, except as may be within the limits of the amount now or hereafter authorized to be appropriated" was held to limit expenditures to authorized projects and a point of order against the language as legislation was overruled.

On May 24, 1960,[17] the Committee of the Whole was considering H.R. 12326. At one point the Clerk read as follows:

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by law; detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction); and not to exceed $1,400,000 for transfer to the Secretary of the Interior for conservation of fish and wildlife as authorized by law; $662,622,300, to remain available until expended: *Provided,* That no part of this appropriation shall be used for projects not authorized by law or which are authorized by a law limiting the amount to be appropriated therefor, except as may be within the limits of the amount now or hereafter authorized to be appropriated. . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I make the point of order against the language to be found on page 4, beginning on line 18 and into line 21, "or which are authorized by a

16. Carl T. Curtis (Nebr.).

17. 106 CONG. REC. 10979, 10980, 86th Cong. 2d Sess.

law limiting the amount to be appropriated therefor, except as may be within the limits of the amount now or hereafter authorized to be appropriated."

Mr. Chairman, I make the point of order against that language on the ground that it is legislation on an appropriation bill. I make the further point of order that this is authorizing appropriations for projects not authorized by law. . . .

THE CHAIRMAN:[18] The Chair is prepared to rule.

It so happens that almost an identical point of order to an identical paragraph was raised on June 18, 1958, by the gentleman from New York [Mr. Taber]. It also happens that the present occupant of the chair was in the chair at that time. The Chair ruled then that the language was specific, that there was no question about its referring to the controlling phrase "authorized by law," and none of the appropriation can be expended unless authorized by law.

The Chair overrules the point of order and sustains the ruling made on June 18, 1958.

Parliamentarian's Note: It should be emphasized that the provision in question did not permit appropriations for unauthorized projects, but merely stated that where projects are authorized, even just for planning, money is only available within limits now or hereafter changed. This and related precedents are discussed further in § 7, supra. See, for example, the June 18, 1958, ruling discussed at § 7.10, supra.

18. Hale Boggs (La.).

Public Works Acceleration

§ 69.5 An amendment to a supplemental appropriation bill providing funds for public works acceleration but prohibiting use of such funds for (1) projects previously rejected and (2) projects, other than for forest preservation, not requiring state or local matching funds was held to be a limitation and in order.

On Apr. 10, 1963,[19] the Committee of the Whole was considering H.R. 5517. The Clerk read as follows:

Amendment offered by Mr. [Edward P.] Boland [of Massachusetts]:

Page 7, after line 14 insert:

"PUBLIC WORKS ACCELERATION

"For an additional amount for 'Public Works Acceleration', $450,000,000: *Provided,* That no part of this appropriation shall be used for any project that has ever been rejected by the Senate or House of Representatives or by any Committee of the Congress: *Provided further,* That no part of this appropriation shall be used for any project that does not require a financial contribution from State or local sources except projects dealing with

19. 109 CONG. REC. 6130–32, 88th Cong. 1st Sess.

preservation of forests in the jurisdiction of the Department of Agriculture and the Department of the Interior.". . .

MR. [MELVIN R.] LAIRD [of Wisconsin]: I make the point of order against the amendment on the basis that you are legislating in an appropriation bill. This particular language which is added by this amendment is, in fact, legislation.

THE CHAIRMAN:[20] Will the gentleman state in what respect it is legislation?

MR. LAIRD: The legislation is in the proviso as far as the matching formula is concerned, which is contrary to the basic law. The second proviso of the amendment does not follow the basic act which was passed in the last session of Congress and is, in fact, legislation. . . .

MR. [ALBERT] THOMAS [of Texas]: . . . Mr. Chairman, I submit that this language is accurate and in order. The gentleman refers to the proviso "providing further that no part of this appropriation shall". It only deals with this appropriation. It is a limitation on the use of the fund and, therefore, I submit it is in order.

THE CHAIRMAN: The Chairman has had an opportunity to examine the amendment and feels that the matter discussed is a limitation on the appropriation. Therefore the Chair overrules the point of order.

Parliamentarian's Note: The authorizing law, Public Law No. 87–658 (the Public Works Acceleration Act of 1962) required matching funds for projects but did not contain the exception stated in the amendment for projects dealing with preservation of forests. Had the argument been pressed that to provide such an exception would allow an unauthorized use of funds for forest projects which do not meet the conditions of the authorizing legislation the Chair should have upheld the point of order.

20. Richard Bolling (Mo.).

Public Buildings

§ 69.6 To an appropriation bill an amendment providing that "none of the funds herein appropriated shall be used for providing facilities at Flint, Mich." was held in order as a limitation restricting the availability of funds.

On July 22, 1954,[1] the Committee of the Whole was considering H.R. 9936, a supplemental appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

For expenses necessary for alteration of Federal buildings to provide facilities for additional Federal judges as authorized by the act of February 10, 1954 (68 Stat. 8), and additional court personnel, and for expansion of existing court facilities, including costs of moving agencies thereby displaced from space in Federal buildings, $3

1. 100 CONG. REC. 11459, 11460, 83d Cong. 2d Sess.

million, to remain available until June 30, 1956.

MR. [ELFORD A.] CEDERBERG [of Michigan]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Cederberg: On page 12, line 21, after "1956", insert "*Provided*, That none of the funds herein appropriated shall be used for providing facilities at Flint, Mich."

MR. [PAUL W.] SHAFER [of Michigan]: Mr. Chairman, I make a point of order against the amendment on the ground that it is legislation on an appropriation bill.

MR. CEDERBERG: Mr. Chairman, this is a limitation upon the appropriation bill rather than legislation.

THE CHAIRMAN:[2] The Chair is ready to rule. The amendment offered by the gentleman from Michigan is definitely a limitation. The point of order is overruled.

Tennessee Valley Authority Personal Services

§ 69.7 To an appropriation bill, an amendment placing a limitation on the amounts in the bill to be used for personal services in the Tennessee Valley Authority was held to be a proper limitation since restricted to funds in the bill.

On Mar. 21, 1952,[3] the Committee of the Whole was considering H.R. 7072, an independent offices appropriation bill. During consideration, a point of order against an amendment was overruled as indicated below:

> Amendment offered by Mr. [Kenneth B.] Keating [of New York]: Page 35, line 24, strike out the period and insert a comma and add the following: "and not to exceed $99,131,125 of funds available under this section shall be used for personal services.". . .
>
> MR. [ALBERT] THOMAS [of Texas]: I made the point of order that it is legislation on an appropriation bill. It says "funds available." There are two types of funds available to the TVA—appropriated funds and its own revenues. . . .
>
> THE CHAIRMAN:[4] The Chair is ready to rule.
>
> The Chair is of the opinion that the amendment refers only to funds contained within this section of this bill and is merely a negative limitation, which is in order. Therefore, the Chair overrules the point of order.

Parliamentarian's Note: Just prior to this ruling, the Chair had ruled out of order an amendment stating that "not to exceed $99,131,125 of the funds available to the Tennessee Valley Authority shall be used for personal services." [See 98 Cong. Rec. 2673, 2674]. The Chair stated that that amendment was not limited to funds contained in the bill.

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2. Leo E. Allen (Ill.).

3. 98 CONG. REC. 2674, 82d Cong. 2d Sess.

4. Wilbur D. Mills (Ark.).

Restricting Highway Funds to Limit Vehicle Weights

§ 69.8 An amendment to a general appropriation bill prohibiting the use of Interstate Highway System funds in the bill by any state which permits the Interstate System to be used by vehicles in excess of certain sizes and weights but not interfering with contractual obligations entered into prior to enactment was held in order as a negative limitation on the use of funds in the bill which did not impose new duties on federal officials (who were already under an obligation to determine vehicle weights and widths in each state) and which did not directly change any allocation formula in existing law.

On July 10, 1975,[5] during consideration in the Committee of the Whole of the Department of Transportation appropriation bill (H.R. 8365), a point of order against an amendment was overruled as follows:

The Clerk read as follows:

Amendment offered by Mr. [Edward I.] Koch [of New York]: page 35, after line 21, insert:

Sec. 315. (a) No part of any appropriation for the Interstate System contained in this Act shall be available for expenditure or obligation in any State within the boundaries of which the Interstate System may lawfully be used by vehicles with weight in excess of eighteen thousand pounds carried on any one axle, or with a tandem-axle weight in excess of thirty-two thousand pounds, or with an overall gross weight in excess of seventy-three thousand two hundred and eighty pounds, or with a width in excess of ninety-six inches, or the corresponding maximum weights or maximum widths permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956 (or in the case of the State of Hawaii February 1, 1960), whichever is the greater.

(b) Subsection (a) of this section shall take effect in each State on the 30th day after the 1st day of a regular session of the legislature of that State which session begins after the date of enactment of this Act.

(c) Nothing in this section shall be deemed to prohibit the payment of any contractual obligation of the United States entered into prior to the date of enactment of this Act.

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, I raise a point of order against the amendment on the ground it is legislation in an appropriation bill.

It imposes a tremendous amount of new duties on the Secretary of Transportation, the Administrator of the Federal Highway System, in order to enforce the law. . . .

MR. [JAMES C.] WRIGHT [Jr., of Texas]: . . . This amendment, if adopted, would require a great number of the States—28 of them, if my information is current and correct—to amend

5. 121 CONG. REC. 22006, 22007, 94th Cong. 1st Sess.

or repeal their own basic laws, adopted in good faith and in total conformity with applicable Federal law, under pain of losing their Federal highway apportionments. If that is not changing the basic law, Mr. Chairman, it would be difficult, indeed, to conceive of a provision which would change basic law.

This amendment, if adopted, would impose upon the administrators in the Federal Highway Administration and the Department of Transportation the duty of ascertaining just which States had complied with this new directive, when they had come into compliance with the new directive, whether their individual statutes met the test herein prescribed, part of which test is totally new to Federal law, whether their individual legislative action had been timely within the meaning of this amendment, and precisely how much of their entitlements were to be withheld based upon their untimeliness or their total failure to comply. . . .

Moreover, the effect of the amendment would go far beyond the period covered by the annual appropriation. I invite the attention of the Chair to subsection (b) of the amendment as offered by the gentleman from New York, which reads as follows:

> Subsection (a) of this section shall take effect in each State on the 30th day after the 1st day of a regular session of the legislature of that State which session begins after the date of enactment of this Act.

Therefore, this would be applicable at different times in different States. Furthermore, it is a well-known and verifiable fact, Mr. Chairman, that in some of the States the next regular session of the legislature will not occur until the year 1977, and therefore, the applicability of this provision in the current 1976 appropriations bill, if it were adopted, would not occur in some of the States until many months after the expiration of the period for which this appropriations bill is written, almost 2 years from the present date.

An understanding of title 23 of the United States Code, which sets forth the basic highway laws of the Nation, makes it abundantly clear that the presently offered amendment, by its very terms, would profoundly affect not only the present appropriation, but future appropriations and apportionments under the law and the basic legal relationship which present law prescribes between the States and the Federal Government. . . .

Sections 104, 106, and 118 of title 23 set forth the manner of apportionment and obligation of funds among the States, including the approval of plans, specifications, and estimates for individual projects, and mandate advance contractual obligations on the part of the Federal Government.

They contain the declaration that—

> On or after the date the funds are apportioned, they shall be available for expenditure.

Section 104 requires that apportionments among the States be based upon a ratio concerning the estimated cost of completing the Interstate System within each such State. It also requires, Mr. Chairman, in the interest of orderly planning and continuity, that apportionments be made as far in advance of each fiscal year as possible and, in no case, less than 18 months prior to the beginning of that year.

So, if this amendment were adopted and were to go into effect in some

States 18, 20 or 23 months from now, it would have a profound effect on the duties of the Administrator in that not only would he have to make ascertainments, he would have to make guesses in advance as to whether a given State were going to comply with this act, because the language compels him to make that apportionment 18 months in advance; and any apportionments withheld as a result of this amendment clearly would affect and even control appropriations and expenditures in future fiscal years. . . .

THE CHAIRMAN:[6] the gentleman from Massachusetts and the gentleman from Texas make a point of order against the amendment offered by the gentleman from New York on the grounds that it constitutes legislation and is not in order on an appropriation bill.

The Chair would first state that it is well settled that the House may in an appropriation bill negatively deny the use or availability of funds for certain purposes or to certain recipients even though authorized by law, if the denial is limited to funds contained in the bill and if the limitation does not constitute new legislation.

The amendment offered by the gentleman from New York limits itself to appropriations contained in the bill for the Interstate System. The amendment denies the availability of such funds for expenditure or obligation within States wherein certain truck weights and widths may be lawfully used on the Interstate System.

The determination by the Federal Government, whether States would meet the test mandated by the amendment, would not require new affirmative duties. As Chairman Price ruled on December 11, 1973—the decision is noted in Deschler's Procedure, chapter 25, section 16.2—almost any limitation on an appropriation bill requires some determination to establish the fact whether the limitation would apply, and it is in order to restrict the availability of funds to recipients not meeting certain qualifications as long as the determination of those qualifications is readily ascertainable under existing law and facts. The Chair would note that under section 127 of title 23 of the United States Code, as amended by the Federal Aid Highway Amendments of 1974, the Federal Government has the authority and duty to determine the vehicle weights and widths which may be used in each State on the Interstate System.

It has been contended that the amendment constitutes legislation because it denies the availability of funds not only for expenditures but also for obligation. Yet the limitation is confined to the funds carried in the bill and would deny only their use for certain obligations entered into. The amendment reaches no funds which are not carried in the bill, and that goes to the point raised by the gentleman from Texas that some State legislatures are not in session on an annual basis. It has been held in order on an appropriation bill to deny the use of funds in the bill for the Export-Import Bank to guarantee the payment of certain obligations therein-after incurred, as cited in Deschler's Procedure, chapter 25, section 16.5. Again Deschler's Procedure, chapter 25, section 17.1, indicates that an amendment

6. John M. Murphy (N.Y.).

to an appropriation bill may provide that none of the funds therein shall be available for payments on certain contracts, and 4 Hinds' Precedents, section 3987, lays down the principle that an appropriation may be withheld from a designated object although contracts may be left unsatisfied thereby.

The amendment in issue does not seek to directly change a formula, repeal a provision of law or require the use or allocation of funds contrary to law. It simply denies appropriation for a purpose which is authorized by law. For that reason the Chair overrules the point of order.

§ 70. Defense

Prohibiting Funds for Invasion of North Vietnam

§ 70.1 To a bill making supplemental defense appropriations, an amendment providing that none of the funds so appropriated be available for implementation of any plan to invade North Vietnam was held in order as a valid limitation restricting the availability of funds.

On Mar. 16, 1967,(7) the Committee of the Whole was considering H.R. 7123. During the proceedings, a point of order against an amendment was overruled as indicated:

Amendment offered by Mr. [George E.] Brown of California: On page 7, after line 13, insert the following:

"General Provision.—None of the funds appropriated in this Act shall be available for the implementation of any plan to invade North Vietnam with ground forces of the United States, except in time of war."

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I make the point of order against the amendment that it is legislation on an appropriation bill. It appears to be a limitation, but it is in fact legislation, and I make a point of order on that ground. . . .

MR. BROWN of California: Mr. Chairman, I regret that the distinguished chairman of the Committee [on Appropriations] has seen fit to raise a point of order in connection with my amendment in view of the language which is already contained in the bill with regard to limitations on expenditures with regard to airlift and in view of the precedents of the House with regard to limitations of this sort. . . .

I would like to cite for the benefit of the Chairman Cannon's precedents, paragraph 1657:

> On March 22, 1922, the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was read:
>
> "No part of the appropriations made herein for pay of the Army shall be used, except in time of emergency, for the payment of troops garrisoned in China or for payment of more than 500 officers and enlisted men on the Continent of Eu-

7. 113 CONG. REC. 6886, 6887, 90th Cong. 1st Sess.