



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25

B-108245

March 19, 1952

The Honorable

The Postmaster General

My dear Mr. Postmaster General:

Consideration has been given by this Office to the question as to whether the general provision relating to the Post Office Department contained in chapter IV of the Supplemental Appropriation Act, 1951, approved September 27, 1950, 64 Stat. 1050, constitutes permanent legislation. Such provision is as follows:

"Hereafter, none of the funds appropriated to the Post Office Department from the general fund of the Treasury shall be withdrawn from the Treasury until the Postmaster General shall certify in writing that he has requested the consent of the Interstate Commerce Commission to the establishment of such rate increases or other reformatations (in addition to any specific increases or other reformatations heretofore or hereafter authorized or prescribed by law), pursuant to the provisions of section 207 of the Act of February 28, 1925, as amended (39 U.S.C. 247), as may be necessary to insure the receipt of revenue from fourth-class mail service sufficient to pay the cost of such service: Provided, That the foregoing shall not be construed to require any increase in the postage rate, established by the Act of April 15, 1937 (39 U.S.C. 293c), for publications or records furnished to a blind person."

It is well established that a provision contained in an annual appropriation act is not to be construed to be permanent legislation unless the language used therein or the nature of the provision renders it clear that such was the intention of the Congress, but when the word "hereafter" or other words indicating futurity are used or when the provision is of a general character bearing no relation to the object of the appropriation, the pro-

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vision generally has been construed to be permanent legislation.

5 Comp. Gen. 810; 10 id. 120; 24 id. 436; 26 id. 354.

The legislative history of the provision here in question clearly shows that it was not intended to apply solely to the appropriation to supply the deficiency in postal revenues for the fiscal year 1951 or any other single fiscal year, but on the contrary was designed to insure continuous compliance thereafter with the provisions of the act of February 28, 1925, 43 Stat. 1067, as amended, 39 U.S.C. 247, requiring the Postmaster General, with the consent of the Interstate Commerce Commission, to establish rates for fourth-class mail service sufficient to pay the costs thereof. See House Report No. 2987, page 18, and Conference Report No. 3096, page 6, 81st Congress, 2d Session, on the bill which became the act of September 27, 1950, supra. Therefore, it is the view of this Office that the provision in question constitutes permanent legislation and is for application whenever it is disclosed that the revenues from fourth-class mail do not equal the cost of such operations.

It has been ascertained that on October 13, 1950, the Postmaster General requested the consent of the Interstate Commerce Commission to an increase in the rates for carrying fourth-class mail matter and by letter dated November 16, 1950, to the Secretary of the Treasury, certified that such request had been made. Also, it appears the Commission gave its consent to the proposed increases on May 11, 1951. 280 I.C.C. 703, 730. While heretofore the letter

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of November 16, 1950, has been considered sufficient evidence of compliance by the Postmaster General with the requirements of the provisions in the 1950 act in approving warrants for deficiencies in postal revenues, since it appears that the petition filed with the Commission now has been acted upon and is no longer pending, and as it is understood that determinations whether there will be a deficit in fourth-class postal revenues are made on an annual basis, this Office will require on all warrants appropriating funds from the general fund of the Treasury to the Post Office Department on or after July 1, 1952, an affirmative certificate that its latest cost analysis shows that the fourth-class mail rates are producing sufficient revenues to cover the cost of carrying such mail, or that a further petition has been filed with the Interstate Commerce Commission for an increase in the rates to cover the deficiencies therein as disclosed by the annual cost accounting operations of the Post Office Department.

A copy of this letter has been furnished to the Secretary of the Treasury for his information.

Sincerely yours,

Lindsay C. Warren

Comptroller General
of the United States

Handwritten signature and date:
7/16/52