The amendment offered by the gentleman from Florida [Mr. Pepper] would impose a Federal penalty when a firearm is used or carried by a person in the commission of a felony in a State in which there is no State law making the carrying or use of a firearm a felony. The amendment confers jurisdiction on the State courts to try persons charged with violating the provisions of the amendment.

The bill, as amended by the Committee of the Whole, presently contains a provision for similar penalties when a firearm is unlawfully carried during the commission of a felony which is prosecuted in a Federal court.

The amendment does not create a new State crime. It describes an act which is to be unlawful under Federal law and provides for the prosecution of that act in either a Federal or State court.

The Chair believes that the amendment, which extends the provisions of the so-called Poff amendment—adopted by this Committee on last Friday—to felony prosecutions in State courts, is a modification of a matter already introduced into this bill by amendment, and is therefore germane.

§ 13. Proposition and Amendment as Affecting Different Classes of Persons or Entities

Where a proposition and an amendment offered thereto affect different classes of persons, the amendment is frequently ruled out as not germane. Thus, to a bill to provide for the common defense by increasing the strength of the armed forces, an amendment seeking to impose certain sanctions on persons outside the armed forces was held not to be germane.[20] Generally, to a bill relating to relief for one class, an amendment seeking to include another class is not germane.[1] Accordingly, to a bill extending the benefits of a federal program to one class, an amendment to include other classes as recipients of such benefits is not germane.[2]

Bill Mandating Study of Pay Practices Within Civil Service—Amendment Extending Coverage to Impact on Wages in Other Jobs

§ 13.1 To a bill relating to a certain class of federal employees, an amendment to bring other classes of employees within the scope of the bill is not germane; thus, to a bill mandating a study of equitable pay practices within the federal civil service (defined as only those employees of executive agen-

20. See §§ 13.11, 13.12, infra.

1. See §§ 8.19, 8.24, supra.

2. See § 39.18, infra.

cies), an amendment expanding the study to include the impact on wages in similar jobs negotiated under collective bargaining agreements was held to be nongermane, since it was capable of being construed as adding different categories of employees to the single class covered by the bill.

On Oct. 9, 1985,[3] during consideration of H.R. 3008[4] in the Committee of the Whole, the Chair sustained a point of order to the amendment described above. The amendment and the section to which it was offered were as follows:

The text of section 7 is as follows:

SEC. 7. REPORTING REQUIREMENTS.

(a) Deadline.—The Commission shall, not later than 18 months after the date of its establishment, submit to the President and each House of Congress—

(1) a copy of a report which shall be prepared by the consultant selected to perform the study under this Act; and

(2) comments of the Commission relating to such report.

(b) Information To Be Provided in Consultant's Report.—Included in the report referred to in subsection (a)(1) shall be a detailed statement of the findings and conclusions of the consultant, pursuant to its study, with respect to differentials in rates of basic pay between or among occupations compared on the basis of sex, race, and ethnicity, including. . . .

A later section of the bill contained the following definitions:

SEC. 10. DEFINITIONS.

For the purpose of this Act—

(1) "job-content analysis", as applied with respect to occupations, means an objective, quantitative method of rating representative entry-level positions within such occupations in order that . . .

(3) "occupation" means any grouping of positions within an agency, as identified or defined under chapter 51 of title 5, United States Code, or subchapter IV of chapter 53 of such title.

To section 7, the following amendment was offered:

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Walker: In section 7, page 12, after line 6, insert the following new subsection and renumber succeeding sections accordingly:

"(b)(2) Such study shall include and measure the impact on wages in similar jobs negotiated under collective bargaining agreements.". . .

MS. [MARY ROSE] OAKAR [of Ohio]: Mr. Chairman, the amendment offered by the gentleman from Pennsylvania (Mr. Walker) proposes to expand greatly the scope of the bill under consideration. As such, the amendment violates clause 7 of House Rule XVI and is nongermane.

Mr. Chairman, the bill before us is very limited in scope. It relates only to

3. 131 CONG. REC. 26951–54, 99th Cong. 1st Sess.

4. The Federal Pay Equity Act.

employees of executive agencies, as defined in 5 U.S.C. 105. The bill is further limited in scope in that the study it mandates is limited to salaries and wages of executive agency employees in positions under the Government's position classification system under chapter 51 of title 5, and the prevailing rate system under subchapter IV of chapter 53 of title 5. Clearly the bill relates only to certain employees in the executive branch and their salaries and wages. It in no way concerns salaries or wages of private-sector employees. . . .

The amendment offered by the gentleman from Pennsylvania (Mr. Walker) on the other hand would expand the scope of the study mandated by the bill to "include and measure the impact on wages in similar jobs negotiated under collective bargaining agreements." This obviously would expand the study to cover Government agencies not presently covered, such as the Postal Service and the Tennessee Valley Authority. It also apparently expands the study to cover private-sector wages, which unlike most wages in the executive branch are negotiated under collective bargaining agreements. Thus, the amendment greatly expands the scope of the study and the bill. As such, it is nongermane. . . .

MR. WALKER: . . . Mr. Chairman, I am a little at a loss to understand to what part of the bill the gentlewoman from Ohio thinks I am amending, because the part of the bill that I am amending refers directly to the consultant's report. In that particular language, it is very, very broad in its coverage as to what the consultant should report about. He is to report on basic pays between or among occupations compared on the basis of sex, race, ethnicity. That is a fairly broad definition.

Then we go over to the section that I am directly amending and we find out that it is going to have a list of groups of occupations, occupations comprising any such group involved in skills, efforts, responsibilities, qualification requirements, working conditions, all kinds of broad categories.

The only thing that my amendment does suggest is that another one of the determinants within that ought to be the existence of a collective bargaining agreement. It has absolutely nothing to do with the private sector, unless this bill involves the private sector, because it refers back to the study that the bill requires be done; so therefore if we are going to have something in this amendment that refers to the private sector, then we have suddenly learned something new about this bill that it includes the private sector, because my amendment speaks directly to information to be provided in the consultant's report, and so therefore the only way that the private sector could get involved in this would be if that is the intent of the committee to have that consultant's report refer to private sector activities. This language goes directly to that particular aspect of the bill. That particular aspect of the bill is very broad and this would simply be additional language that relates to collective bargaining agreements. . . .

MS. OAKAR: . . . Mr. Chairman . . . so that there is no confusion about the purpose of the bill, even though there has been a deliberate attempt to distort it, it says in section (3), "occupation" means any grouping of positions within an agency, as identified or defined under chapter 51 of title 5,

United States Code, or subchapter IV of chapter 53 of such title.

It is very clear which employees we are referring to. It is a very, very specific group. . . .

THE CHAIRMAN:[5] The Chair is prepared to rule.

The Chair believes that the amendment as drafted may be interpreted to apply to a different category of employees from those covered by the bill. If the Chair may cite from the precedents of the House on the germaneness rule, the Chair cites as such:

> To a bill dealing with a certain class of Federal employees (the U.S. civil service in this case), an amendment to bring other classes of employees within the scope of the bill is not germane.[6]

Therefore, the Chair sustains the point of order in this case.

Bill Providing Cost-of-Living Adjustment for Foreign Service Retirees—Amendment To Adjust Civil Service Annuities

§ 13.2 To a bill reported from the Committee on International Relations containing a cost-of-living adjustment for foreign service retirees, an amendment containing a comparable adjustment in annuities for federal civil service employees was held not to be germane as beyond the scope of the bill and within the jurisdiction of the Committee on Post Office and Civil Service.

During consideration of H.R. 13179 (the State Department authorization bill for fiscal 1977), it was demonstrated that an individual proposition may not be germane to another individual proposition even though they may belong to the same generic class. The proceedings of June 18, 1976,[7] wherein the Chair sustained a point of order against the amendment described above, were as follows:

COST-OF-LIVING ADJUSTMENTS OF FOREIGN SERVICE RETIREMENT ANNUITIES

Sec. 13. (a) Section 882(b) of the Foreign Service Act of 1946 is amended by striking out "1 per centum plus".

(b) The amendment made by subsection (a) shall apply with respect to annuity increases which become effective after the end of the forty-five-day period beginning on the date of enactment of this Act. . . .

MR. [EDWARD J.] DERWINSKI [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Derwinski: Page 10, strike out lines 3 through 9 and insert in lieu thereof the following:

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5. Esteban E. Torres (Calif.).

6. The Chair was referring to the precedent at Deschler's Procedure Ch. 28, Sec. 10.8, discussed in more detail at § 13.3, infra.

7. 122 CONG. REC. 19224, 19226, 94th Cong. 2d Sess.

Sec. 13. (a) Section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)) is amended to read as follows:

"(b) Effective the first day of the second month which begins after the price index change equals a rise of at least 3 percent for a month over the price index for the month last used to establish an increase, each annuity payable from the Fund having a commencing date not later than that effective date shall be increased by such percentage rise in the price index, adjusted to the nearest 1/10th of 1 percent.". . .

COST-OF-LIVING ADJUSTMENTS OF CIVIL SERVICE ANNUITIES

Sec. 14. (a) Section 8340(b) of title 5, United States Code, is amended to read as follows:

"(b) Each month the Commission shall determine the percent change in the price index. Effective the first day of the second month which begins after the price index change equals a rise of at least 3 percent for a month over the price index for the base month, each annuity payable from the Fund having a commencing date not later than that effective date shall be increased by such percentage rise in the price index, adjusted to the nearest one-tenth of 1 percent.". . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: . . . Mr. Chairman, this amendment is not germane to this bill because it affects the U.S. Civil Service and it is not within the scope of the bill. . . .

MR. DERWINSKI: I rise in opposition to the point of order.

Deschler's Procedure, chapter 28, paragraph 1.4, under general principles of germaneness, states that the rule of germaneness applies to the relationship between a proposed amendment and the pending bill to which it is offered.

There is an obvious relationship. Section 12 of the bill provides for annuity adjustments for alien employees who are under the Civil Service Retirement Act. Section 13 of the bill amends the annuity provisions of the Foreign Service Act.

The amendment I have offered relates to both these retirement systems. My amendment to section 13 of the bill amends the annuity provisions of the Foreign Service Act by changing the formula for cost-of-living adjustments, and is germane to that section. My amendment adding a new section 14 to the bill amends the Civil Service Retirement Act in the same manner, and is germane to the bill.

Mr. Chairman, because both of these retirement systems are affected by the pending bill, the amendment I have offered is, I believe, in compliance with the rule of germaneness.

Mr. Chairman, I urge the point of order be overruled.

THE CHAIRMAN:[8] The Chair is prepared to rule.

For the reasons stated by the gentleman from Pennsylvania (Mr. Morgan) that the amendment covers a class of employees who are not contained in the bill, the Chair rules that the amendment is not germane and sustains the point of order.

Civil Service Employees—Postal and District of Columbia Employees

§ 13.3 To a bill relating to a certain class of federal em-

8. John Brademas (Ind.).

ployees (the civil service), an amendment to bring another class of employees (postal and District of Columbia employees) within the scope of the bill is not germane.

On Sept. 7, 1978,[9] during consideration of a bill[10] containing proposals to reform the federal civil service through merit system principles and personnel management, a point of order was made against two titles of a committee amendment in the nature of a substitute, one dealing with the work week of federal firefighters and one amending a law (the "Hatch Act") regulating political activities of postal and District of Columbia employees as well as the civil service. The point of order was made pursuant to a special order allowing a point of order based on the contention that both titles taken together would not have been germane if offered as a separate amendment to the bill as introduced, and providing that if the point of order were sustained, the committee amendment after deletion of those titles, would be read as an original bill for the purpose of amendment. The Chair ruled that the amendment was not germane, basing such ruling on the inclusion of postal and District employees within the coverage of the bill, without deciding the issue relating to inclusion of provisions as to the work week of federal firefighters.

THE CHAIRMAN:[11] . . . Pursuant to the rule, the Clerk will now read by titles the committee amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk proceeded to read the bill.

MR. [LLOYD] MEEDS [of Washington]: Mr. Chairman, I make a point of order against titles IX and X, based on their violation of clause 7, rule XVI, in that they are nongermane to the bill before us.

Title IX deals with two groups of employees not covered in the original bill. It includes postal workers and District of Columbia employees. There is much precedent which indicates that we have classes of subjects not covered by the basic proposition before us, which renders the new material nongermane. That is precisely what title IX does by adding two new subjects.

Title X, on the other hand, introduces new subject matter, the pay of firefighters that is not covered in the original bill. Title X deals exclusively with hours of work and wages of firefighters, while the original bill deals with the institution of the merit system within the system. Where hours or

9. 124 CONG. REC. 28437–39, 95th Cong. 2d Sess.

10. The Civil Service Reform Act of 1978 (H.R. 11280).

11. George E. Danielson (Calif.).

wages are included, it is only incidental to the basic proposition of the merit system, so both of these titles should be stricken for the above reason, and for the added reason that neither proposition amends the original bill. Rather, both seek to amend existing and basic law. . . .

MR. [WILLIAM] CLAY [of Missouri]: . . . The facts are fairly obvious—and the connections between Hatch Act reform and the rest of H.R. 11280 are quite strong—

First, the bill, in section 2302 (on page 138, beginning on line 24) defines improper political activities as a prohibited personnel practice. Title IX of the bill states exactly what these improper political activities are.

Second, the bill charges the special counsel of the Merit System Protection Board (MSPB) with responsibility for not only investigating prohibited personnel activities in general but improper political activities in particular. (See page 160, beginning on line 24.) Title IX of the bill defines more fully these activities which apply to Federal civilian as well as postal employees.

Mr. Chairman, it is inconceivable to me that this bill—which touches on virtually every aspect of civil service—should have political activities and firefighters singled out for this kind of shabby treatment. . . .

MR. [HERBERT E.] HARRIS [II, of Virginia]: Mr. Chairman, the point of order under the rule applies to titles IX and X, and comes before this House in a most unusual, and indeed a peculiar, way that the Chair perhaps would have to rule against the germaneness of one title that will be germane, because it is connected in the rule to another title that the Chair may consider nongermane.

I think it is unfortunate that the House must consider the matter in that fashion. I would point out to the Chair with regard to this point of order that title X, in fact, does pass the jurisdictional test. It was in fact with the same jurisdiction committee, the Committee on Post Office and Civil Service, as this bill is brought; therefore, it passes that jurisdictional test as far as the case is concerned.

I would point out further that the firefighter bill was actually reported out of this committee and came before this House; it passed by almost a 2-to-1 margin. Again, it reaches the fundamental purpose test.

The bill itself is for the reform of the civil service system by title. This bill is for the reform of the working conditions of the firefighters, a part of the civil service system by title. The fundamental purpose of both bills are exactly the same, that is, reform of the system. . . .

I can cite precedents to indicate that when a bill deals with several particulars, one particular may be held to be germane.

In fact, this class is the same as the other titles of the bill. A bill may be amended by a specific proposition of the same class.

I would be happy to quote to the Chair about a dozen precedents that make this point.

If in fact we were to deal with the whole civil service system, dealing with a particular part of that system, that is the firefighters and their work rules is a particular matter within that system. Therefore, I would urge the Chair to

overrule the point of order and hold title X as germane.

THE CHAIRMAN: The gentleman from Washington makes a point of order against titles IX and X of the committee amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service, on the grounds that those titles would not have been germane if offered as an amendment to the bill H.R. 11280, as introduced.

As indicated by the gentleman from Washington, the special order providing for consideration of this measure, House Resolution 1307, allows the Chair to entertain a point of order on the basis stated by the gentleman, that titles IX and X would not have been germane as a separate amendment to H.R. 11280 in its introduced form.

The bill as introduced and referred to the Committee on Post Office and Civil Service, although broad in its coverage of reform proposals within the competitive service and in the executive branch of the Government, is limited to merit system principles and personnel management within the civil service of the U.S. Government. Title IX of the committee amendment is designed to characterize and to protect appropriate political activities of employees of the District of Columbia and Postal Service as well as civil service employees, by amending the Hatch Act. The Chair agrees with the argument of the gentleman from Washington that the amendment would add an entirely new class of employees to that covered by the bill, and for that reason is not germane.

Accordingly the Chair sustains the point of order.

Post Office Employees—Treasury Department Employees

§ 13.4 To a bill relating to annual salary increases for custodial-service employees of the Post Office Department, an amendment seeking to make the bill's provisions applicable to employees of the Treasury Department was held not germane.

In the 76th Congress, a bill[12] was under consideration which stated in part:[13]

> Be it enacted, etc., That every custodial-service employee . . . employed by the Post Office Department shall, at the end of each year's satisfactory service, be promoted to the compensation rate next higher than that of which he is then in receipt. . . .

An amendment was offered as described above.

Mr. John Taber, of New York, raised the point of order that the amendment was not germane to the bill. The Speaker,[14] in sustaining the point of order, stated:

> . . . The Chair is clearly of the opinion that the point of order is well taken, for the reason that the pending bill deals with only one class of employees in one particular department.

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12. H.R. 892 (Committee on Post Office and Post Roads).

13. 84 CONG. REC. 4946, 76th Cong. 1st Sess., May 1, 1939.

14. William B. Bankhead (Ala.).

The amendment offered by the gentleman from New York [Mr. Celler] undertakes to include the employees of another department.

Bill Affecting Civilian Federal Employees and Excluding Military Personnel From Coverage—Amendment To Strike Provision Excluding Military Personnel

§ 13.5 To a bill governing the political activities of a certain class of federal employees, an amendment broadening the scope of the bill to cover another class of federal employees is not germane; thus, where a bill contained a provision excluding from its coverage a particular class (members of the uniformed services), the effect of which was to narrow the scope of the bill to another single class (federal civilian employees), an amendment proposing to strike out that exclusion from coverage, thereby broadening the scope of the bill to include the separate class, was held not germane.

On June 7, 1977,[15] during consideration of the Federal Employees' Political Activities Act of 1977,[16] the Chair held that an amendment which by deleting an exception to the definition of the class covered by the bill and by inserting new provisions has the effect of including another class, is not germane. The amendment and proceedings related thereto were as follows:

The Clerk read as follows:

Amendments offered by Mr. Kindness: Page 28, line 12, strike out "but does not include a member of the uniformed services" and insert "including any member of the uniformed services". . . .

Page 38, line 14, immediately before the period insert "or by reason of being a member of the uniformed services".

Page 45, before line 8, insert the following:

"(j) The preceding provisions of this section shall not apply in the case of a violation by a member of a uniformed service. Procedures with respect to any such violation shall, under regulations prescribed by the Secretary concerned, be the same as those applicable with respect to violations of section 892 of title 10.

Page 46, after line 12, insert the following:

"(c) The preceding provisions of this section shall not apply in the case of a violation by a member of the uniformed services. Any such violation shall, under regulations prescribed by the Secretary concerned, be subject to the same penalties as apply in the case of a violation of section 892 of title 10.".

Page 47, after line 21, insert the following:

"(d) In the case of members of the uniformed services, the Secretary

15. 123 CONG. REC. 17713, 17714, 95th Cong. 1st Sess.

16. H.R. 10.

concerned shall carry out the responsibilities imposed on the Commission under the preceding provisions of this section.". . . .

Page 48, after line 17, insert:

"(c) In the case of members of the uniformed services, the Secretary concerned shall prescribe the regulations the Commission is required to prescribe under this section, section 7322(9), and section 7324(c)(2) and (3) of this title.". . . .

MR. [WILLIAM] CLAY [of Missouri]: Mr. Chairman, I raise the point of order on the grounds that the matter contained in the amendment is in violation of the germaneness rule stated in clause 7 of House rule XVI.

The instant amendment proposes to make the bill applicable to an entirely new class of individuals other than what is covered under the bill.

The reported bill applies only to civilian employees in executive branch agencies, including the Postal Service and the District of Columbia government, who are presently under the Hatch Act.

The amendment seeks to add a totally different class of individuals to the bill; namely, military personnel who are not now covered by the Hatch Act. Accordingly the amendment is not germane to the bill. . . .

MR. [THOMAS N.] KINDNESS [of Ohio]: Responding [to] the point of order, Mr. Chairman, the bill, as before us at this time, has been expanded in considerable degree by the Clay amendment and by other amendments that have been adopted during the course of the consideration of the bill in the Committee of the Whole.

However, I would point out that the amendment is germane, and I particularly direct the attention of the chairman and the Members to line 12 of page 28 where, in the definition of the word "employee" the words appear, on line 12, "but does not include a member of the uniformed services."

Mr. Chairman, that is the very crux of this whole point. The committee has given consideration, apparently, to the inclusion or exclusion of members of uniformed services under the provisions of this bill. A conscious decision was apparently made; and as reported to the House, this bill has that conscious decision reflected in it not to include members of the uniformed services.

Mr. Chairman, the issue is directly before the House in that form, so that the amendment offered by the gentleman from Ohio is in order, is pertinent, and is germane. It could not be nongermane.

THE CHAIRMAN:[17] The Chair is prepared to rule on the point of order.

The gentleman from Missouri (Mr. Clay) makes a point of order that the striking of the language, "but does not include a member of the uniformed services," and the remainder of the amendment broadens the scope of the bill in violation of rule XVI, clause 7.

The gentleman from Ohio (Mr. Kindness) argues that because the exclusion from coverage for the military is in the bill and has received consideration, that the germaneness rule should be more liberally interpreted.

An annotation to clause 7, rule XVI, says that, in general, an amendment simply striking out words already in a bill may not be attacked as not germane unless such action would change

17. James R. Mann (S.C.).

the scope and meaning of the text. Cannon's VIII, section 2921; Deschler's chapter 28, sec. 15.3.

On October 28, 1975, Chairman Jordan of Texas ruled, during the consideration of a bill H.R. 2667, giving the right of representation to Federal employees during questioning as follows:

> In a bill amending a section of title 5, United States Code, granting certain rights to employees of executive agencies of the Federal Government, an amendment extending those rights to, in that case, legislative branch employees, as defined in a different section of that title, was held to go beyond the scope of the bill and was ruled out as not germane.

The class of employees included in this legislation is confined to civilian employees of the Government, and those specifically so stated and described as being civilian employees of the executive agencies, of the Postal Service and of the District of Columbia government, and a reference to the Hatch Act as currently in force indicates that military personnel are not included in that act.

It is obvious that the purpose and the scope of the act before us as referred to in its entirety as amended by this bill, is, "to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes."

The Chair finds that the striking of the language excluding military employees and inserting language covering the military broadens the class of the persons covered by this bill to an extent that it substantially changes the text and substantially changes the purpose of the bill. The fact that the exclusion of military personnel was stated in the bill does not necessarily bring into question the converse of that proposition. The Chair therefore finds that the amendment is not germane and sustains the point of order. . . .

MR. KINDNESS: Mr. Chairman, I have [a] parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. KINDNESS: Mr. Chairman, my parliamentary inquiry is this: Is there a way to appeal the ruling of the Chair within the rules of the House?

THE CHAIRMAN: Yes, there is.

MR. KINDNESS: So that I may respectfully appeal the ruling of the Chair at this point?

THE CHAIRMAN: If the gentleman from Ohio desires to do so.

Does the gentleman desire to appeal the ruling of the Chair?

MR. KINDNESS: No, Mr. Chairman, I do not so desire at this point.

Federal Employees—Members of Press

§ 13.6 To a bill providing salary increases for federal officers and employees, an amendment promoting salary increases for members of the "working press" and prohibiting the privilege of the press gallery to news media who do not provide such increases for their employees was held to be not germane.

The following exchange[18] concerned a point of order raised against a proposed amendment to a bill[19] relating to salary increases for federal employees:

MR. [MORRIS K.] UDALL [of Arizona]: I make the point of order against the amendment that it is not germane to the provisions of this bill. . . .

MR. [PAUL C.] JONES, of Missouri:[20] Mr. Chairman, we have now done something for all the employees of the Government. The working press is a quasi-public body. . . . I think they should have consideration in this bill.

THE CHAIRMAN [Chet Holifield, of California]: The Chair is prepared to rule.

The gentleman's amendment is clearly not germane to the bill. It applies to a group of people who do not come within the jurisdiction of the Federal Government. Therefore the Chair sustains the point of order.

MR. JONES of Missouri: . . . I feel that if we are going to take care of the people who are employed in the House and in the Federal Government and over in the Supreme Court and everywhere else and give them a raise, I believe these people in the Press Gallery ought to have a raise.

Travel Expenses for Senate Employees—Travel Expenses of House Members

§ 13.7 To a Senate amendment providing for payment from the Senate contingent fund of certain travel expenses incurred by Senate employees, an amendment providing additional travel allowances, payable from the House contingent fund, to Members of the House was held not germane.

The following proposition relating to employees of the Senate was one of several amendments reported in disagreement on Mar. 29, 1961:

Senate Amendment No. 66: Page 24, line 12, insert:

ADMINISTRATIVE PROVISION

The ninth paragraph under the heading "Administrative Provisions" in the appropriations for the Senate in the Legislative Branch Appropriations Act, 1957 (2 U.S.C. 127), is amended to read as follows:

The contingent fund of the Senate is hereafter made available for the payment of mileage . . . between Washington . . . and the residence city of the Senator involved, for not to exceed four round trips . . . made by employees in each Senator's office. . . .[1]

A motion was made by Mr. Albert Thomas, of Texas, to recede and concur in such amendment, with an amendment[2] as described above. Mr. Harold R.

18. 110 CONG. REC. 5137, 5138, 88th Cong. 2d Sess., Mar. 2, 1964.

19. H.R. 8986 (Committee on Post Office and Civil Service).

20. Mr. Jones was the proponent of the amendment.

1. 107 CONG. REC. 5277, 87th Cong. 1st Sess.

2. *Id.* at p. 5278.

Gross, of Iowa, then made a point of order, stating that the amendment "is not germane because it deals with an entirely different class of people," and citing the principle that one individual proposition may not be amended by another individual proposition. The Speaker,[3] in sustaining the point of order, stated:

> Senate amendment No. 66 deals entirely with employees of the Senate. The amendment offered by the gentleman from Texas brings in Members of the House. Therefore the Chair must hold that the point of order is well taken.

Bill Requiring Study of Pay Practices in Executive Branch—Amendment To Include Practices in Legislative Branch

§ 13.8 To a bill requiring a study to determine the equitability of federal pay practices under statutory systems applicable to agencies of the executive branch, an amendment to extend the scope of the study to pay practices in the legislative branch was held not germane by the Committee of the Whole, sustaining the ruling of the Chair on appeal.

On Sept. 28, 1988,[4] during consideration of H.R. 387,[5] the Committee of the Whole held that to a bill dealing with a certain class of federal employees, an amendment bringing another class of federal employees within the scope of the bill is not germane. The amendment and proceedings relevant thereto were as follows:

> MR. [STEVE] BARTLETT [of Texas]: Mr. Chairman, I offer several amendments.
>
> The Clerk read as follows:
>
> Amendments offered by Mr. Bartlett: Page 2, line 11, insert "and pay structures for congressional employees," after "title,".
>
> Page 9, line 9, insert "and any congressional office" after "agency". . . .
>
> (b) Comparisons.—(1) In performing the study, comparisons shall be made—
>
> (A) both within the same system and among the respective systems under this Act; and
>
> (B) both on an intra-agency and on an inter-agency basis.
>
> (2) For the purpose of this subsection—
>
> (A) "system" means any system or structure referred to in section 2(a); and
>
> (B) "agency" means any agency within the meaning of section 10(12) and any congressional office.
>
> Page 16, line 15, strike "title" and insert in lieu thereof "title, and any similar grouping of positions used by a congressional office;". . . .

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3. Sam Rayburn (Tex.).

4. 134 CONG. REC. 26420–22, 100th Cong. 2d Sess.

5. The Federal Equitable Pay Practices Act.

MR. [GARY L.] ACKERMAN [of New York]: Mr. Chairman, I make a point of order against the amendments. . . .

[T]he amendment offered by the Member from Texas, Mr. Bartlett, proposes to expand the class of individuals covered by the bill. As such the amendment violates clause 7 of rule XVI and is nongermane.

Mr. Chairman, the bill before us applies to a very specific class; that is, employees of executive agencies (as defined in 5 U.S.C. 105, but not including the General Accounting Office). The bill is further limited in scope in that the study it mandates is limited to executive agency employees in positions under the Government's position classification system under chapter 51 of title 5, and the prevailing rate system under subchapter IV of chapter 53 of title 5. Clearly the bill relates only to certain employees in the executive branch. That is the class concerned. The amendment, on the other hand, applies to an entirely different class, that is, legislative branch employees.

There are a number of precedents on this point. Sections 10.3, 10.7, 10.8, and 10.9 of chapter 28 of Deschler's Procedure each cite instances in which, to legislation affecting one class or group of Federal employees, amendments expanding the scope to other classes of individuals (including other classes of Federal employees) were ruled nongermane. A particularly helpful precedent occurred on October 28, 1975, when the House was considering legislation to provide certain procedural rights to employees or executive agencies. An amendment was offered which would have included "congressional employees" within the bill's provisions. In that instance, Chairman Jordan ruled that by adding a totally different individual class of employees to the bill, the amendment went beyond the scope of the bill and was nongermane.

Mr. Chairman, I insist on my point of order. . . .

MR. BARTLETT: Mr. Chairman, I do seek to speak on the point of order.

Mr. Chairman, I rise to speak on the point of order and to state that this amendment is not out of order but, in doing so, I would inquire of the subcommittee chairman and the sponsor of the bill what I inquired earlier, if he would choose to enlighten us, is it the sponsor's intent to specifically exclude Congress as an employer from coverage under this study and this bill?

I heard, from listening to the point of order, that it was at least his intent to exclude Congress from this study. . . . Mr. Chairman, in addressing to the point of order, this legislation was drafted for the purpose of proposing a new study of Federal employees, as contained in the definition section of the bill on page 17, line 14; it includes definition of Government means the Government of the United States which that Government of the United States includes employees of that Government which includes employees who are employed by the legislative branch.

It seems to me that the committee and the bill's sponsors have had ample opportunity to draft the bill in a way that would include Congress in the coverage.

Now they earlier said that they chose not to do it because their committee did not have jurisdiction. I would contend to the Chair that this

body, the floor, does have jurisdiction if it chooses to include Congress as part of this study. If indeed the committee did not have jurisdiction as the gentleman had said, well then this body does have jurisdiction but the gentleman from New York [Mr. Ackerman], the chairman of the subcommittee, is objecting then on another ground outside of jurisdiction.

So, Mr. Chairman, it becomes a catch-22. The committee does not have jurisdiction to include Congress so they bring it to the floor where we have jurisdiction, but because the committee did not address it in the drafting well, the sponsor objects because the committee did not do it. It is a circular argument we have seen before.

Let me continue on objections on the point of order. Number one was the fact that the bill does include in the definition of government the entirety of the Federal Government, page 17, line 14 "government means the government of the United States."

Number two, the rules of the House, rule XVI provide that "to a proposition to accomplish a result through regulation by a governmental agency, an amendment to accomplish the same fundamental purpose through regulation by another governmental agency is germane."

This amendment accomplishes the same fundamental purpose if we accept the sponsors at their word, and that is their purpose to apply a pay equity standard to the Government, meaning the Government of the United States.

No. 2, Mr. Chairman, on December 19, 1973, the House was considering an Energy Research and Development Administration bill, an amendment was offered to apply the same requirements to the Council on Environmental Quality. A point of order was raised and the point of order against the bill was overruled, Mr. Chairman, because the bill authorizing the Administrator of ERDA to engage in certain activities was the same as the amendment which authorized the Council on Environmental Quality to engage in the same activity. The amendment authorizes the same activity as does the bill.

No. 3, going back to December 15, 1937, in the debate over the original Fair Labor Standards Act, several questions of germaneness arose over amendments. Once again the Chair cited Cannon's Precedents, volume 8 at section 3056, to wit, "To a proposition to accomplish a certain purpose by one method a proposition to achieve the same purpose by another closely related method is germane."

This amendment accomplishes the same purpose as the main bill. It accomplishes it to a group of employees that have been, for reasons which I cannot understand, have been excluded from coverage from this by the sponsors of this bill for reasons I cannot understand. . . .

MRS. [LYNN] MARTIN of Illinois: Mr. Chairman, another argument to that, it is inconsistent within our rules or with any precedent to define Federal employee in one way which is an employee of the Government, but to then in effect say that the Federal employees of the Congress of the United States are not Federal employees.

You cannot argue it both ways. They are either Federal employees or they are not Federal employees and should not be excluded under the ruling. . . .

MR. ACKERMAN: Mr. Chairman, could the gentleman from Texas please tell us what an executive agency means, again? Tell us what that means again, what agency means, that the gentleman just spoke of.

MR. BARTLETT: Mr. Chairman, in the definition of the bill, the bill's sponsors have drafted the bill explicitly to say that an agency means an executive agency within the meaning of section 105. . . .

THE CHAIRMAN:[6] The Chair is prepared to rule.

For the reasons stated by the gentleman from New York and the gentlewoman from Colorado, and under the precedents of the House, cited by the gentleman from New York, the point of order must be sustained. The Chair so rules.

MR. BARTLETT: Mr. Chairman, I would appeal the decision of the Chair.

THE CHAIRMAN: The question is, Shall the decision of the Chair stand as the judgment of the committee?

The question was taken; and the Chairman announced that the ayes appeared to have it.

MR. BARTLETT: Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 251, noes 150, not voting 30.

6. Dale E. Kildee (Mich.).

Bill Concerning Termination of Federal Assistance to Institutions Practicing Discrimination—Amendment To Include Members of Congress as Recipients of Federal Assistance for Purposes of Bill

§ 13.9 To a bill narrowly amending several civil rights statutes only to clarify the circumstances under which any institution receiving federal financial assistance may have such assistance terminated because of discrimination by such institution, an amendment to deem Members of Congress as recipients of federal financial assistance for the purpose of those statutes was held not germane, since the amendment required no showing that Members of Congress do in fact receive federal financial assistance as defined in those statutes, and thus expanded the scope of coverage of the laws amended to a class unrelated to the group of institutions addressed in the bill and the laws amended.

On June 26, 1984,[7] the Chairman of the Committee of the Whole, in

7. 130 CONG. REC. 18857–62, 98th Cong. 2d Sess.

holding the amendment described above as not being germane demonstrated that, to a bill having as its fundamental purpose the clarification of eligibility of existing recipients for federal financial assistance under several statutes, an amendment deeming a specified entity to be a recipient of federal financial assistance for the purposes of those laws was not germane since it expanded the scope of the coverage of the laws being amended to a class not necessarily covered by the class of recipients in the bill.

The Clerk read as follows:

> Sec. 5. (a) Section 601 of the Civil Rights Act of 1964 (hereafter in this section referred to as the "Act") is amended—. . .
>
> (3) by striking out "under any program or activity receiving" and inserting in lieu thereof "by any recipient of". . . .
>
> (c) Title VI of the Act is amended by adding at the end thereof the following new section:
>
> "Sec. 606. For the purpose of this title, the term 'recipient' means—
>
> "(1) any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, or any public or private agency, institution, or organization, or other entity (including any subunit of any such State, subdivision, instrumentality, agency, institution, organization, or entity), and
>
> "(2) any successor, assignee, or transferee of any such State, subdivision, instrumentality, agency, institution, organization, or entity or of any such subunit, to which Federal financial assistance is extended (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits.". . . .

MR. [STEVE] BARTLETT [of Texas]: Mr. Chairman, I have an amendment at the desk labeled amendment No. 1 which I offer at this time.

The Clerk read as follows:

> Amendment offered by Mr. Bartlett: Page 10, after line 22, insert the following:
>
> Sec. 6. With respect to matters relating to the performance of their official duties, Members of Congress shall be deemed to be recipients of Federal financial assistance for purposes of section 901 of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, section 303 of the Age Discrimination Act of 1975, and section 601 of the Civil Rights Act of 1964. . . .

MR. [PAUL] SIMON [of Illinois]: Mr. Chairman, I renew my point of order, and let me say in renewing it that in theory I am in agreement with the gentleman from Texas. I am a cosponsor of a bill to cover Members of Congress under separate legislation.

This, however, this legislation covers Federal executive agencies. It does not cover the U.S. Congress. . . .

What the gentleman is attempting to do is to go beyond the scope, beyond the germaneness of this particular legislation, and I believe the amendment is not in order. . . .

MR. BARTLETT: . . . Several points. No. 1, section 504 does apply to executive agencies, and that is the General Accounting Office.

Congress may already—and let us take it point by point—the Congress may already be covered in the bill's definition of recipient, which is, in part, "any public or private agency, institution, or organization to which Federal financial assistance is extended.". . .

Congress is also, obviously a recipient and, therefore, if Congress receives

"Federal financial assistance" it would be covered under H.R. 5490. Nowhere in any of the covered acts is there a specific definition of "Federal financial assistance," but Mr. Chairman, Congress obviously must pay its bills from somewhere and that somewhere is the Federal Government, so that means that there is assistance, Federal financial assistance. . . .

Mr. Simon: . . . The question is whether the law up to this point has covered the legislative branch. The answer is clearly that it has not.

So what the gentleman from Texas is doing is going appreciably beyond the present law and the law has not covered Congress for a perfectly sound reason, and that is the separation of powers. . . .

MR. [JAMES C.] WRIGHT [Jr., of Texas]: It seems to me that the point of order rests upon the well-established rule that an amendment is not germane if it extends the law to cover an entirely separate and distinctly different class of people than those whom the law in its initial presentation in the bill would be made applicable.

It seems clear to me that the amendment offered by the gentleman would indeed extend the application of that statute to an entirely separate and different class of people. . . .

MR. [JOHN] CONYERS [Jr., of Michigan]: . . . The amendment is not germane. The separation of powers doctrine, if we do not recognize it even here in this sensitive area, we would be inviting the Department of Justice to come in to enforce the civil rights laws. We tried many times to deal with this problem in other ways. For example, the House fair employment practices agreement is one way of creating the mechanism. . . .

THE CHAIRMAN:[8] The Chair is ready to rule.

In the bill the term "recipient" means those entities to which Federal assistance is extended.

The gentleman's amendment deems Congress to be a recipient of Federal financial assistance. That does not mean that there may not be some instances in which Congress may in fact receive Federal financial assistance, but it deems Congress to receive Federal financial assistance even without any showing whatever that in fact it has that financial assistance extended to it.

Doing that expands the bill from defined group in the legislation and in the law today to a much different group and in that sense goes beyond the scope of the legislation, and the gentleman's amendment is not in order.

On a roll call vote, the Committee of the Whole sustained on appeal the ruling of the Chair on the question of germaneness of the amendment:[9]

MR. [WILLIAM E.] DANNEMEYER [of California]: Mr. Chairman, I appeal the ruling of the Chair.

THE CHAIRMAN: The question is, Shall the decision of the Chair be sustained as the judgment of the Committee? . . .

The question was taken; and the Chairman announced that the ayes appeared to have it.

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8. Al Swift (Wash.).

9. 130 CONG. REC. 18861, 18862, 98th Cong. 2d Sess.

MR. DANNEMEYER: Mr. Chairman, I demand a recorded vote. . . .

THE CHAIRMAN: The pending business is the demand of the gentleman from California [Mr. Dannemeyer] for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 277, noes 125, answered "present" 1, not voting 30, as follows: . . .

So the decision of the Chair was sustained.

Bill Prohibiting Uses of Polygraphy in Private Sector—Amendment To Extend Coverage of Bill to Congress

§ 13.10 To a bill according protection to a certain class, an amendment extending the protection to another class is not germane; thus, to a bill prohibiting certain uses of polygraphy in the private sector, an amendment applying the terms of the bill to the Congress was held not germane.

During consideration of H.R. 1212[10] in the Committee of the Whole on Nov. 4, 1987,[11] the Chair sustained a point of order in the circumstances described above. The proceedings were as follows:

THE CHAIRMAN:[12] Are there any amendments to section 5?

If not, the Clerk will designate section 6.

The text of section 6 is as follows:

SEC. 6. EXEMPTIONS.

(a) No Application to Governmental Employers.—The provisions of this Act shall not apply with respect to the United States Government, a State or local government, or any political subdivision of a State or local government.

(b) National Defense and Security Exemption.—(1) Nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to—

(A) any expert or consultant under contract to the Department of Defense or any employee of any contractor of such department. . . .

(2) Nothing in this Act shall be construed to prohibit the administration, in the performance of any Intelligence or counterintelligence function, of any lie detector test to—

(A)(i) any individual employed by, or assigned or detailed to, the National Security Agency or the Central Intelligence Agency, (ii) any expert or consultant under contract to the National Security Agency or the Central Intelligence Agency, (iii) any employee of a contractor of the National Security Agency or the Central Intelligence Agency, or (iv) any individual applying for a position in the National Security Agency or the Central Intelligence Agency. . . .

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10. The Employee Polygraph Protection Act.

11. 133 CONG. REC. 9582–84, 100th Cong. 1st Sess.

12. Henry B. Gonzalez (Tex.).

MR. [STEVE] BARTLETT [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Bartlett: On page 7, line 1, strike "United States Government," and insert in lieu thereof the following: "United States Government, except for the Congress of the United States insofar as it is engaged in functions not directly related to national security as determined by such Congress,". . . .

MR. [GARY L.] ACKERMAN [of New York]: Mr. Chairman, I wish to pursue my point of order.

It appears to me that the amendment is not germane, because it broadens the scope of the coverage to Government employees; and at the present time, the bill only covers the private sector. . . .

MR. BARTLETT: . . . Mr. Chairman, I would cite in the rules of the House in section 10.10 on page 579 the rule of the House that states the following:

"To a bill extending benefits to a certain class of employees, an amendment to extend those benefits to an additional category of employees within that class is germane"—is germane. . . .

The bill has established a class of employees, of all employees, and then exempted all Government employees from that class.

I would then very narrowly remove a portion of the exemption as the category within the class that is being exempted, so if the bill exempts all Government employees, then the Congress can remove part of that exemption.

Either the exemption section is out of order, or my amendment is out of order. . . .

MR. ACKERMAN: Mr. Chairman, the operative words that we just heard here were not employees but rather "class of employees."

As described in the proposed legislation, the class pertains to private-sector employees, thereby exempting the entire class of public-sector employees. . . .

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Chairman, I would hope the point of order would not be sustained.

If the Chair will examine the bill, the Chair will find in section 6 of the bill that there is indeed an exemption for all Government employees, and this was done to make certain the bill was sent only to the Committee on Education and Labor.

On page 7 of the bill, the Chair would find under part (2), (A)(i) any individual employed by, or assigned or detailed to, the National Security Agency or the Central Intelligence Agency; and in the bill itself they begin the process of defining certain Government employees. . . .

All the gentleman from Texas is doing is singling out another group of people who the gentleman is saying should not be exempted, so therefore, because the bill was broadened by the language on page 7, it is this gentleman's interpretation that the Chair should rule against the point of order raised by the gentleman from New York, because the bill already classifies Government employees in the same way that the gentleman from Texas seeks to classify Government employees.

MR. BARTLETT: . . . What constitutes a class, I call to the Chair's at-

tention page 3, section 3, lines 2 and 3 of the bill, in which the bill clearly establishes the class of employers that are covered.

The class of employers that are covered is established by the following one sentence:

"It shall be unlawful for any employer engaged in commerce or in the production of goods for commerce . . ."

The bill then later narrows, or takes that class and removes one category of that class. Therefore, my amendment is in order, because it applies to the same class that the bill covers; that is, any employer engaged in commerce or in the production of goods for commerce. . . .

THE CHAIRMAN: The Chair has carefully evaluated the arguments, having anticipated the same, and wishes to state that with reference to the citation that the gentleman from Texas [Mr. Bartlett] referred to, section 10.10 chapter 28 of the Procedures in the House, the gentleman did not emphasize, and the Chair will read, "to a bill extending benefits to a certain class of employees, an amendment to extend those benefits to an additional category of employees within that class is germane."

Obviously, the Chair cannot select a narrow reading of one part of the bill, as the gentleman from Texas has just done, but must consider the bill as a whole.

In doing so, we find that both the thrust of the bill, as well as the report accompanying the bill explaining the bill, clearly define the range and scope of coverage to the private sector.

In the case of exemptions as put forth on page 14 of the report, section 6 exempts all governmental employers, whether Federal, State, local or a political subdivision.

This section consistent with this exemption also provides a rule of construction with respect to private-sector employers doing counterintelligence or intelligence work with the CIA, DOD, DOE atomic energy defense activities, FBI and NSA.

Clearly, the committee was trying to stay within the limits of its jurisdiction by attempting to legislate for the private sector employer/employee, and trying to stay within the limitations imposed by prior legislation by the Congress in which it had legislated with respect to the Defense Department, intelligence community and the like, so therefore, the Chair is prepared to rule that in light of the fact that intentionally, or unintentionally, the amendment of the gentleman from Texas [Mr. Bartlett] would in effect do by indirection what cannot be done by direction, and therefore, is not in keeping with Jefferson's Manual and the citations following the germaneness rules, as well as Deschler's Procedure, chapter 28, section 7.9 which clearly prohibits broadening of exemptions in cases such as this. Therefore, the Chair is compelled to sustain the point of order raised by the gentleman from New York.

Parliamentarian's Note: The principle cited above should be distinguished from the principle that, where a bill accords protection to a certain class, an amendment extending such protection to an additional category within that same class may be germane. See § 12, supra, for further discussion.

Bill Increasing Armed Forces—Amendment Prohibiting Discrimination by Persons Outside Armed Forces

§ 13.11 To a bill to provide for the common defense by increasing the strength of the armed forces through voluntary enlistments and induction, an amendment providing that no member of the armed forces should be discriminated against because of his race, creed, religion, or the like, by, among others, any common carrier, hotel, or restaurant, was held to be not germane as imposing sanctions upon a different class.

During consideration of the Selective Service Act of 1948,[13] the following amendment was offered:[14]

> On page 21, line 6, add the following new section 6 and renumber the sections that follow accordingly:
>
> "Sec. 6. No member of the armed forces shall be discriminated against in any manner because of his race, color, national origin, ancestry, language, or religion by (1) any officer or employee of the United States, of any State or any governmental subdivision thereof, of any Territory or possession of the United States, or of the District of Columbia, (2) any other member of the armed forces, (3) any common carrier, (4) any hotel or other place of public lodging . . . or (7) any business or service engaged in commerce. . . ."

In response to a point of order made by Mr. Robert L. F. Sikes, of Florida, the following argument was made by the proponent of the amendment:

> MR. [LEO] ISACSON [of New York]: Mr. Chairman, this amendment deals with certain rights and consequences which flow from the induction of Negroes into the armed forces of the United States. I submit that there are other sections in this bill which deal with the same subject, and it is therefore germane. I might also add that the amendment was considered in the Senate and was held to be germane.

The Chairman,[15] in ruling on the point of order, stated:

> Whatever action was taken in another body does not control the action of this body.
>
> The Chair is prepared to rule. In the opinion of the Chair, the amendment offered by the gentleman from New York [Mr. Isacson] clearly goes beyond the scope of the bill. It purports to impose sanctions on persons who are not members of the armed forces, such as common carriers, and other classes. Therefore, the Chair holds that the amendment is not germane and sustains the point of order.

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13. H.R. 6401 (Committee on Armed Services).

14. 94 CONG. REC. 8681, 80th Cong. 2d Sess., June 17, 1948.

15. Francis H. Case (S.D.).

—Penalties Imposed on Persons Outside Armed Services for Maintaining Brothels and the Like

§ 13.12 To a bill to provide for the common defense by increasing the strength of the armed forces, an amendment proposing penalties for the maintenance, by persons outside the armed forces, of brothels and the like near army posts was held to be not germane.

In the 80th Congress, during consideration of the Selective Service Act of 1948,[16] the following amendment was offered:[17]

> Amendment offered by Mr. [Edward H.] Rees [of Kansas]: At the end of line 12, page 23, add the following and number the succeeding sections accordingly:
>
> "Sec. 8. (a) The training under this act shall be . . . carried out on the highest possible moral . . . plane.
>
> "(b) It shall be unlawful within such reasonable distance of any military camp . . . as the Secretary of National Defense may determine to be necessary to the protection of the health, morals, and welfare of such persons who are receiving training under this act . . . to establish or keep houses of ill fame [and the like]. . . . Any person, corporation, partnership, or association violating any of the provisions of this subsection shall be deemed guilty of a misdemeanor. . . ."

In response to a point of order that the amendment was not germane to the bill,[18] Mr. Rees stated:

> Mr. Chairman, I call attention to the fact that the committee in charge of this bill approved practically all of the amendment I am submitting under what is known as the Towe bill. . . .

The following exchange then occurred with respect to the point of order: [19]

> MR. [CARL] VINSON [of Georgia]: May I say to the distinguished gentleman that the Towe bill was a training bill and had no military obligation. This bill is to build up an Army.
>
> MR. REES: . . . I see no real difference. . . . Is it not a fact that these boys under this bill are to go into training? . . .
>
> Mr. Chairman, I do not see how a point of order could lie against this proposed amendment. It is within the broad scope of this legislation. Certainly, if you can pass a law to take these boys from their homes in peacetime without their consent, then you can provide for protection in this amendment. . . .
>
> MR. [STEPHEN] PACE [of Georgia]: Mr. Chairman, I respectfully submit

16. H.R. 6401 (Committee on Armed Services).

17. 94 CONG. REC. 8685, 80th Cong. 2d Sess., June 17, 1948.

18. The point of order was raised by Mr. Walter G. Andrews (N.Y.).

19. 94 CONG. REC. 8685, 8686, 80th Cong. 2d Sess., June 17, 1948.

that the amendment offered by the gentleman from Kansas is germane to the purpose, intent, and policy of the bill. The bill proposes, not a system of volunteers but a plan of induction for taking young men from their homes and placing them in military-training camps. Certainly it is within the jurisdiction of the Congress, where it invokes conscription for the assembling of great masses of young men in military-training camps, as this bill specifically provides, to prescribe the circumstances and conditions under which they shall be trained. . . .

THE CHAIRMAN [Francis H. Case, of South Dakota]: . . . The Chair must remind the Committee that the provisions in the bill as reported by the committee were made in order by a special rule adopted by the House of Representatives. There may be provisions in the bill which would not be germane if offered as an amendment by individual Members, but are in order in the bill because they were made in order by the rule adopted by the House.

So every amendment offered must stand on its own bottom as to whether or not it is germane.

The Chair invites attention to the fact that the amendment includes such language as "It shall be unlawful to maintain certain institutions," and further on says, "Any person, corporation, partnership, or association violating any of the provisions of this subsection shall be deemed guilty of a misdemeanor' and so forth. In that respect it seems to the Chair that the amendment goes beyond the provisions of the bill, imposing penalties and sanctions on persons outside the armed forces.

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

After the above ruling, Mr. Rees offered the amendment without the words making violation of its provisions a misdemeanor and imposing penalties for such violations.[20] No point of order based on a question of germaneness was raised in this instance.

—*Amendment To Exempt Members of Armed Forces From Poll Taxes*

§ 13.13 To a bill to provide for the common defense by increasing the strength of the armed forces, an amendment providing that no person inducted under the act should be required during such service to pay any poll tax or other tax as a condition of voting was held to be germane.

In the 80th Congress, during consideration of the Selective Service Act of 1948,[1] Mr. George H. Bender, of Ohio, offered an amendment[2] containing the provisions described above. A point of order against the amendment was raised by Mr. John Bell Williams, of Mississippi, who contended that

20. *Id.* at p. 8686.

1. H.R. 6401 (Committee on Armed Services).

2. 94 CONG. REC. 8705, 80th Cong. 2d Sess., June 17, 1948.

the amendment was not germane. The Chairman,[3] in ruling on the point of order, stated:

> . . . The Chair has examined the amendment. It seems to deal entirely with persons who are inducted or enlisted in the armed forces under this act. The Chair holds that the amendment is germane and overrules the point of order.

Provision To Postpone Further Induction Into Armed Forces Until Certain Date—Amendment To Increase Pay of All Members of Armed Forces

§ 13.14 To an amendment proposing that further induction into the armed forces be postponed until a certain date, an amendment proposing to amend the Pay Readjustment Act of 1942 to increase the pay of all members of the armed forces was held not germane.

In the 79th Congress, during consideration of a bill[4] relating to extension of the Selective Training and Service Act, the following amendment was under consideration:[5]

> Amendment offered by Mr. [Carl] Vinson [of Georgia]: On page 1, in line 11 . . . insert the following proviso: "Provided, That so much of the second sentence of section 3(a) of the Selective Training and Service Act of 1940, as amended, as precedes the first proviso in such sentence is amended to read as follows:
>
> "The President is authorized after, and not before, October 15, 1946, to select and induct (men) into the armed forces of the United States . . . and no monthly requisitions for men shall be made on selective service by either the Secretary of War or the Secretary of the Navy between May 15, 1946, and October 15, 1946. . . ."

To such amendment, the following amendment was offered:[6]

> Amendment offered by Mr. [Forest A.] Harness of Indiana: At the end of the amendment offered by the gentleman from Georgia, insert a new section, as follows:
>
> That (a) the first paragraph of section 9 of the Pay Readjustment Act of 1942, as amended, is hereby amended to read as follows:
>
> "The monthly base pay of enlisted men of the Army, Navy, Marine Corps, and Coast Guard shall be as follows: Enlisted men of the first grade, $165. . . ."

A point of order was raised against the Harness amendment, as follows:

> MR. [OVERTON] BROOKS [of Louisiana]: . . . Mr. Chairman, I make the point of order that the amendment to the amendment on a bill dealing with selective service seeks to write a gen-

3. Francis H. Case (S.D.).

4. H.R. 6064 (Committee on Military Affairs).

5. See 92 CONG. REC. 3649, 79th Cong. 2d Sess., Apr. 13, 1946.

6. *Id.* at p. 3650.

eral Army pay bill, and this pay bill, if passed, would cover millions of soldiers, sailors, and marines not brought within the terms of selective service either during the war or at the present time, and therefore, is not germane or related to the subject matter of drafting men into the service.

In defense of the amendment, the proponent stated as follows:

MR. HARNESS of Indiana: . . . Mr. Chairman, I believe every Member wants to vote on this increase in pay to stimulate volunteer enlistments. The original Selective Service Act contained a provision on pay for men inducted under the act. I cannot see any reason why we should not consider the matter in connection with the extension of selective service, especially in connection with the amendment offered by the gentleman from Georgia to suspend the act, pending a trial period for obtaining voluntary enlistments. . . .

The Chairman,[7] in ruling on the point of order, stated:

The Chair is ready to rule. The amendment offered by the gentleman from Indiana is neither germane to the amendment offered by the gentleman from Georgia, nor is it germane to the bill as reported, and which the House is now considering. The Chair sustains the point of order.

7. Alfred L. Bulwinkle (N.C.).

Bill Requiring Audits of Government Corporations—Amendment To Require Audits of Corporations Owned or "Controlled" by Government.

§ 13.15 To that section of a bill requiring that financial transactions of government corporations be audited by the General Accounting Office, an amendment to require that corporations owned "or controlled" by the government be audited by such office was held to be not germane.

In the 79th Congress, a bill[8] was under consideration to provide for the effective administration of certain lending agencies of the federal government. An amendment was offered[9] as described above. A point of order was raised against the amendment, as follows:

MR. [BRENT] SPENCE [of Kentucky]: . . . (T)his amendment . . . is an amendment of the act creating the General Accounting Office. It is not germane to this bill. Its effect cannot be foretold at the present time. . . . It seems to me "Government-controlled corporation" is hard to define.

8. S. 375 (Committee on Banking and Currency).

9. 91 CONG. REC. 1192, 79th Cong. 1st Sess., Feb. 16, 1945.

The Chairman, Alfred L. Bulwinkle, of North Carolina, stating that the amendment "broadens the scope of the bill," [10] sustained the point of order.

Grants to Private Health Care Providers—Amendment To Authorize Grants to States for Control of Specified Public Health Hazard

§ 13.16 To a bill authorizing categorical grants to certain private entities furnishing health care to medically underserved populations, a committee amendment authorizing direct grants to states for control of a certain public health hazard was held not germane because it related to different categories of recipients.

On Mar. 5, 1986,[11] during consideration of H.R. 2418 in the Committee of the Whole, the Chair sustained a point of order against an amendment, thus demonstrating that to a bill authorizing certain financial assistance to be administered by one category of recipient for a particular purpose, an amendment authorizing assistance to be administered by a different category of agency recipient beyond the areas covered by the bill is not germane.

The text of the bill is as follows: . . .

SECTION 1. SHORT TITLE: REFERENCE TO ACT.

(a) Short Title.—This Act may be cited as the "Health Services Amendments Act of 1985". . . .

SEC. 2. MEDICALLY UNDERSERVED POPULATIONS.

Section 330(b) (42 U.S.C. 254c(b)) is amended—

(1) by striking out the second, third, fourth, and fifth sentences of paragraph (3); and

(2) by adding at the end thereof the following:

"(4) in carrying out paragraph (3), the Secretary shall by regulation prescribe criteria for determining the specific shortages of personal health services of an area or population group. . . .

"(5) The Secretary may not designate a medically underserved population in a State or terminate the designation of such a population unless, prior to such designation or termination, the Secretary provides reasonable notice and opportunity for comment and consults with—

"(A) the chief executive officer of such State;

"(B) local officials in such State . . .

SEC. 3. MEMORANDUM OF AGREEMENT.

Section 330 (42 U.S.C. 254c) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) In carrying out this section, the Secretary may enter in a memorandum of agreement with a State. Such memorandum may include, where appropriate, provisions permitting such State to—

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10. *Id.* at p. 1193.

11. 132 CONG. REC. 3603, 3604, 99th Cong. 2d Sess.

"(1) analyze the need for primary health services for medically underserved populations within such State;

"(2) assist in the planning and development of new community health centers . . .

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Paragraphs (1) and (2) of section 330(i) (as redesignated by section 202 of this Act) are amended to read as follows:

"(1) There are authorized to be appropriated for payments pursuant to grants under this section $405,000,000 for fiscal year 1986, $437,000,000 for fiscal year 1987, and $472,000,000 for fiscal year 1988. . . .

SEC. 6. MIGRANT HEALTH CENTERS.

The first sentence of section 329(h)(1) (42 U.S.C. 254b(h)(1)) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$50,000,000 for the fiscal year ending September 20, 1986, $56,000,000 for the fiscal year ending September 30, 1987, and $61,000,000 for the fiscal year ending September 30, 1988". . . .

THE CHAIRMAN PRO TEMPORE:[12] The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 6, insert after line 5 the following new section:

SEC. 8. PLAGUE.

Section 317 (42 U.S.C. 247b) is amended by adding at the end the following:

"(k) The Secretary, acting through the Director of the Centers for Disease Control, may make grants to and enter into contracts and cooperative agreements with States for the control of plague. For grants, cooperative agreements, and contracts under this subsection there are authorized to be appropriated $1,000,000 for each of the fiscal years 1986, 1987, and 1988.". . . .

MR. [MICKEY] LELAND [of Texas]: Mr. Chairman, I make a point of order that the amendment is not germane to the subject matter or purpose of this bill and is in violation of clause 7 of rule XVI.

THE CHAIRMAN PRO TEMPORE: . . . If no one wishes to be heard on the point of order, the Chair is ready to rule.

The amendment does not pertain to the subject matter of the introduced bill and addresses a subject that is not covered by the bill and the point of order is sustained.

Bill Relating to Agricultural Workers From Mexico—Amendment Requiring Payment of Minimum Wage to United States Citizens Employed in Agriculture

§ 13.17 To a bill extending an act authorizing the Secretary of Labor to assist in supplying agricultural workers from Mexico, an amendment requiring certain employers who contract for employees under the act to pay United States citizens employed as agricultural workers at a rate not less than a certain minimum was held not germane.

12. Neal Smith (Iowa).

In the 83d Congress, a bill[13] was under consideration relating to importation of foreign agricultural workers. The following amendment was offered to the bill:[14]

> Sec. 503. (a) Any employer who contracts employees under the terms of this title for the planting, cultivating, and/or harvesting of crops . . . which are supported at 90 percent of parity under the terms of the preceding titles of this act, and who also employs citizens of the United States for the same work on such crops, shall pay to such citizens . . . an hourly wage at least equal to 90 percent of the basic minimum wage provided for by the Fair Labor Standards Act of 1938, as amended. . . .

A point of order was raised against the amendment, as follows:

> MR. [CLIFFORD R.] HOPE [of Kansas]: Mr. Chairman, I make the point of order against the amendment on the ground that it is not germane to the bill under consideration. It is an attempt to deal with matters entirely outside the purview of this legislation, legislation which would properly come within the jurisdiction of another committee. It attempts to fix wages and deal with matters that come within the jurisdiction of the Committee on Labor. It might properly be an amendment to the Fair Labor Standards Act, but not to this bill.

The Chairman,[15] in ruling on the point of order, stated:

> The amendment proposes to bring in a new class not contemplated in the bill. Therefore the Chair sustains the point of order.

Provision Defining "Confiscated Property of Foreign State"—Amendment Relating to Just Compensation for Workmen Who Produced Such Property

§ 13.18 To that section of a bill defining "confiscated property of a foreign state or government" in part as property taken by force without just compensation, an amendment proposing that such property be defined further as that taken without payment of just compensation "to the workmen engaged in its production, as determined by the wages and hours provisions of the Fair Labor Standards Act," was held to be not germane.

In the 76th Congress, a bill[16] was under consideration which sought to extend provisions of the National Stolen Property Act, and which stated in part:[17]

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13. H.R. 3480 (Committee on Agriculture).

14. 99 CONG. REC. 3157, 83d Cong. 1st Sess., Apr. 15, 1953.

15. Leo E. Allen (Ill.).

16. S. 3936 (Committee on the Judiciary).

17. See 86 CONG. REC. 12990, 76th Cong. 3d Sess., Oct. 1, 1940.

Sec. 3. The term "confiscated property" shall be deemed to include property which has been taken by means of force, or by means of any law, decree, order, ordinance, or other act, direct or indirect, of any foreign state or government, whether recognized or unrecognized, or of any political subdivision of such state, or of any official board . . . or agency of any such state, government, or political subdivision, without payment of just compensation or reasonable provision therefor having been made.

To such bill, an amendment was offered:

Amendment offered by Mr. [Francis H.] Case of South Dakota: On page 3, line 15, after "payment of just compensation", insert "to the workmen engaged in its production, as determined by the wages and hours provisions of the Fair Labor Standards Act."

Speaking in response to a point of order raised by Mr. Sam Hobbs, of Alabama, Mr. Case, the proponent of the amendment, stated:

I should like to point out that this section deals with a definition of what confiscated property is, and my amendment goes to the definition. The definition of confiscated property, as suggested by the language in the bill, covers that which has been taken by means of force or by means of any law without payment of just compensation. It may be presumed—but the bill does not say—that just compensation relates to the owners of the property. My amendment merely adds to that definition and presumption by providing that the payment of just compensation shall also include payment of just compensation to the workmen who are engaged in the production of the property. Consequently, I maintain that the amendment is germane, and germane at that point.

Mr. Hobbs stated in response:

. . . This bill obtains and applies only to the property itself and not to the mode of its production. In other words, if property is about to be brought into the United States, having been confiscated elsewhere, and if the President ascertains that fact and the further fact that it will have a deleterious effect on our public interests, then he may embargo the bringing into this country of that product. However, he could not do what this amendment would have him do, go into a foreign country and enforce wage and hour regulations there.

This bill does not say a word about compensation to anybody except the true owner of the property taken, and we respectfully submit that it is manifestly not germane and could not . . . be brought within the purview . . . of this bill.

The Chairman [18] ruled that the amendment was not germane:

The Chair is ready to rule.

The Chair thinks that the gentleman from Alabama [Mr. Hobbs] has correctly stated the parliamentary proposition. It is the opinion of the Chair that the amendment is not germane, and therefore the point of order is sustained.

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18. Ambrose J. Kennedy (Md.).

Relief for Civilian Internees—Amendment Extending to Military Prisoners of War

§ 13.19 To a section of a bill dealing with relief of civilian internees, an amendment seeking to extend such relief to military or naval prisoners of war was held not germane.

In the 80th Congress, a bill [19] was under consideration which provided in part: [20]

TITLE III

SHORT TITLE

Sec. 301. This title may be cited as the "Internees' Relief Act of 1947."

DEFINITIONS

Sec. 302. When used in this title—

(1) The term "civilian" means only a person who, at the time of the occurrence of the event which gave rise to a claim for benefits under this title, was a citizen of the United States.

(2) The term "detention" means any restraint of personal liberty (a) due to capture by the enemy. . . .

Sec. 303. (a) Except as otherwise provided in this title, the provisions of titles I and II of the act entitled "An act to provide benefits for the injury, disability, death, or enemy detention of employees of contractors with the United States, and for other purposes", approved December 2, 1942 (56 Stat. 1028), as amended, are extended and shall apply in respect to the injury, disability, or death resulting from injury, or detention of a civilian. . . .

Sec. 305. (a) The provisions of this title shall apply with respect to injury, disability or death from injury, or detention, only if the event giving rise to the right to benefits occurred at Midway, Guam, Wake Island, the Philippine Islands, or at any other Territory or possession of the United States, attacked or invaded by the Imperial Japanese Government. . . .

An amendment was offered, as follows: [1]

Amendment offered by Mr. [Antonio M.] Fernandez [of New Mexico]: . . .

(c) In this title wherever the words "civilian" or "civilians" are used those words shall be construed to include members of the military or naval forces who were citizens of the United States.

The amendment also sought to strike language specifically excluding military personnel from the terms of the bill. Mr. Carl Hinshaw, of California, who had reserved a point of order against the amendment, renewed the point of order, stating: [2]

. . . To say that the term "a person within the purview of this title" and so forth, shall include . . . members of any military or naval force . . . would really

19. H.R. 4044 (Committee on Interstate and Foreign Commerce).

20. 94 CONG. REC. 571, 572, 80th Cong. 2d Sess., Jan. 26, 1948.

1. *Id.* at p. 572.

2. *Id.* at p. 573.

change the entire title, which is intended to be an internees' relief bill. . . .

Mr. Fernandez responded:

Mr. Chairman, the term includes prisoners of war, and if the gentleman's contention is correct, then the so-called Van Zandt amendment was also subject to a point of order. . . .

The following ruling was then made by the Chairman:[3]

Referring to the remarks of the gentleman from New Mexico [Mr. Fernandez] relative to the amendment offered by the gentleman from Pennsylvania [Mr. Van Zandt] the Chair may say that no point of order was lodged against the amendment offered by the gentleman from Pennsylvania.

Referring to the point of order made by the gentleman from California, even if the language which the gentleman from New Mexico seeks to strike out were not in the bill the Chair doubts very much if the gentleman's amendment would be germane because the title of section 3 definitely refers to one class and only one class. This legislation affects the rights of that class known and designated as internees, and then they have strengthened the bill, evidently intending to strength(en) their position, by adopting the language used on page 10, which the gentleman seeks to strike out. Consequently, the Chair is constrained to sustain the point of order.

3. Thomas A. Jenkins (Ohio).

§ 14. Amendments Conferring Powers Not Granted in Bill

The amendments discussed in this section are those which seek to confer authority or powers upon persons, agencies or other entities, of a type or in a manner not addressed or contemplated in the bill.[4]

Joint Resolution Discharging Indebtedness of Commodity Credit Corporation—Amendment Authorizing Corporation To Transfer or Sell Surplus Commodities

§ 14.1 To a joint resolution directing the Secretary of the Treasury to discharge indebtedness of the Commodity Credit Corporation to the Secretary by cancellation of specified notes, an amendment authorizing the corporation to transfer certain surplus commodities to the Department of National Defense and providing for the sale of surplus commodities

4. Discussed elsewhere are topics such as amendments which substitute one agency for another to administer provisions of the bill (§ 7, supra), or which limit powers (§ 33, infra).